

**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 general (under honorable conditions). The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, the request for an upgrade is in the interest of equity and justice.

b. **Board Type and Decision:** In a records review conducted on 19 September 2024, and by a 4-1 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder and Major Depressive Disorder outweighing the applicant's missing movement and failure to obey an order separating offenses. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed to the separation authority to AR 635-200, paragraph 14-12a. Accordingly, the narrative reason for separation changed to Misconduct (Minor Infractions) with a corresponding separation code of JKN. The Board determined the reentry code is proper and equitable and voted not to change it.

*Please see Section 9 of this document for more details 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, Paragraph 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 8 April 2011

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 22 March 2011

(2) **Basis for Separation:** The applicant was informed under Army Regulation, 635-200, paragraph 14-12c(1), of the following reasons: On 15 December 2010, through design the applicant missed the movement of flight DL5064, departing from Nashville, Tennessee, with which the applicant was required in the course of duty to move, and on or about 18 December 2010, the applicant failed to obey a lawful general order, to wit: to be escorted to Atlanta by Staff Sergeant S. E., and manifested for a flight to Afghanistan, and to be ready to leave on 18 December 2010, at 0600.

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

(4) **Legal Consultation Date:** On 23 March 2011, the applicant waived legal counsel. The applicant indicated understanding the applicant was being discharged under Army Regulation 635-200, paragraph 14-12c, but for Pattern of Misconduct.

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

**(6) Separation Decision Date / Characterization:** 4 April 2011 / General (Under Honorable Conditions) / The separation authority approved the applicant's separation under the provisions of AR 635-200, Chapter 14-12c (1), Commission of a Serious Offense for AWOL or Desertion.

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 31 May 2007 / 3 years, 19 weeks / The AMHRR is void of any enlistment contract retaining the applicant on active duty after the initial enlistment period.

**b. Age at Enlistment / Education / GT Score:** 19 / Some College / 82

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 92Y10, Unit Supply Specialist / 3 years, 10 months, 8 days

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

**e. Overseas Service / Combat Service:** SWA / Afghanistan (31 May 2010 – 27 November 2010); Iraq (18 January 2008 – 19 November 2008)

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

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Request and Authority for Leave, 12 October 2010, reflects the applicant was on ordinary leave for rest and recuperation (R&R) from Afghanistan for the period 15 November to 15 December 2010.

Administrative Orders Based on Misconduct, 16 December 2010, reflects the commander revoked the applicant's pass privileges because the applicant did not return to Afghanistan at the end of R&R leave.

Field Grade Article 15, 3 March 2011, for through design missing the movement of flight DL5064, departing from Nashville, Tennessee, with which the applicant was required in the course of duty to move (13 December 2010) and failing to obey a lawful general order, to wit: to be escorted to Atlanta by SSG S. E., and manifested for a flight to Afghanistan, and to be ready to leave on 18 December 2010 at 0600. The DA Form 2627 is void of the punishment; however, the punishment worksheet reflects the punishment consisted of a reduction to E-3; forfeiture of \$975 pay per month for two months (\$975 suspended); extra duty for 45 days; and restriction for 45 days (suspended).

Three Developmental Counseling Forms, for failing to return to Afghanistan through design by missing return flights; failing to obey an order by refusing to return to Afghanistan; and repaying debt to the government.

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

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** Report of Behavioral Health Evaluation, 3 March 2011, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant was screened for post-traumatic stress disorder (PTSD) and mild traumatic brain injury (mTBI). The applicant could understand and participate in administrative proceedings; was mentally responsible; and met medical retention requirements. The applicant was diagnosed with adjustment disorder with depressed mood.

Report of Medical History, 7 March 2007, reflects the applicant reported self-enrolling in the Army Substance Abuse Program (ASAP) in 2009 and being command referred in 2010. The examining medical physician noted in the comments section: Use of illegal drugs 2008, last use two days ago; history of ASAP training 2009 and currently in ASAP.

Report of Medical Examination, 7 March 2011, the examining medical physician noted in the summary of defects and diagnoses section: Stated insomnia and depression.

Chronological Record of Medical Care, 7 March 2011, reflects the applicant was diagnosed with adjustment disorder; insomnia; adjustment disorder with depressed mood; cannabis abuse; and alcohol abuse.

*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 214; DD Form 293.

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with the application.

**7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):**

a. Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

b. Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

(1) Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

c. Army Regulation 15-180 (Army Discharge Review Board), sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), provides the basic authority for the separation of enlisted personnel.

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(2) Paragraph 3-7a states an Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

(3) Paragraph 3-7b states a General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(4) Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

(5) Paragraph 14-3 prescribes a discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

(6) Paragraph 14-12c 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 discharge should be upgraded in the interest of justice. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

## **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, Major Depressive Disorder, and PTSD.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was formally diagnosed in service with an Adjustment Disorder, but the applicant's depressive symptomatology in service is suggestive of Major Depressive Disorder. The applicant is also service connected by the VA for combat-related PTSD. Service connection establishes that the applicant's PTSD also existed during military service.

(3) Does the condition or experience excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that there is evidence of BH conditions that mitigate the basis of separation. The applicant was formally diagnosed in service with an Adjustment Disorder, but the applicant's depressive symptomatology in service is suggestive of Major Depressive Disorder. The applicant is also service connected by the VA for combat-related PTSD. Given the nexus between PTSD, Major Depressive Disorder, and avoidance, the applicant's BH conditions likely contributed to missing movement and failing to obey an order (to be ready for escort to the airport for a flight to Afghanistan). Accordingly, the applicant's PTSD and Major Depressive Disorder mitigate the basis of separation.

(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 and Major Depressive Disorder outweighed the applicant's missing movement and failure to obey an order separating offenses.

b. Response to Contention(s): The applicant contends the discharge should be upgraded in the interest of justice. The Board considered the applicant's entire service record, including the applicant's behavioral health condition. Based on liberal consideration of the applicant's behavioral health, the Board determined that the applicant's Post Traumatic Stress Disorder and Major Depressive Disorder outweighed the applicant's missing movement and failure to obey an order.

c. The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder and Major Depressive Disorder outweighing the applicant's missing movement and failure to obey an order separating offenses. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed to the separation authority to AR 635-200, paragraph 14-12a, and the narrative reason for separation to Misconduct (Minor Infractions) with a corresponding separation code of JKN. The Board determined the reentry code is proper and equitable and voted not to change it.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Post Traumatic Stress Disorder and Major Depressive Disorder outweighed the applicant's missing movement and failure to obey an order separating offenses.

(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 RE code will not change based on the service-connected behavioral health conditions. The current code is consistent with the procedural and substantive requirements of the regulation.

**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**

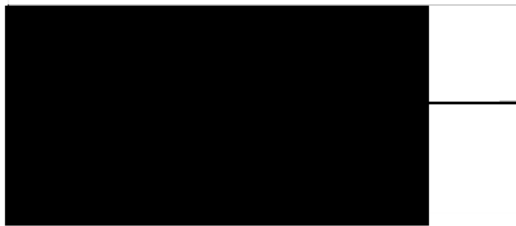
**AR20210001170**

**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: No Change
- e. Change Authority to: AR 635-200

**Authenticating Official:**

9/25/2024



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