

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, being unfairly pushed out of the military by the chain-of-command. The applicant contends their mental health conditions started while on active duty in April 2000. However, since being off active duty, they have been diagnosed with PTSD, major depression, and anxiety by three different psychiatrists and one psychologist. These conditions started while on active duty after finding a friend's body in the barracks room after they committed suicide. The applicant states their superiors did not allow them to seek treatment for these conditions; instead, they discharged the applicant with an under-other than honorable condition discharge for no reason. The applicant requests their deployment to Kuwait and Good Conduct Medal be added to their DD Form 214.

b. **Board Type and Decision:** In a records review conducted on 15 February 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's AWOL offense. 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, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code to RE-3.

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

(Board member names available upon request)

3. DISCHARGE DETAILS:

a. **Reason / Authority / Codes / Characterization:** In Lieu of Trial by Court-Martial / AR 635-200, Chapter 10 / KFS / RE-4 / General (Under Honorable Conditions)

b. **Date of Discharge:** 26 February 2002

c. Separation Facts:

(1) **Date and Charges Preferred (DD Form 458, Charge Sheet):** On 21 February 2001, the applicant was charged with: Charge I: Violating Article 86, UCMJ, for being AWOL from on or about, 8 December 2000, without authority until on or about, 13 February 2001.

(2) **Legal Consultation Date:** 21 February 2001

(3) **Basis for Separation:** Pursuant to the applicant's request for discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial.

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

(5) **Separation Decision Date / Characterization:** 12 February 2002 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 28 July 2000 / 4 years

b. **Age at Enlistment / Education / GT Score:** 22 / High School Graduate / NIF

c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 92A10, Automated Logistical Specialist / 5 years, 7 months, 3 days / The applicant's DD Form 214, Block 12a, appears to be incorrect. The applicant enlisted on 2 February 1998; therefore, Block 12e should read 1 year, 6 months and 9 days.

d. **Prior Service / Characterizations:** ARNG, 23 July 1996 – 30 September 1996 / NA
IADT, 1 October 1996 – 11 March 1997 / UNC
ARNG, 12 March 1997 – 1 February 1998 / HD
RA, 2 February 1998 – 27 July 2000 / HD

e. **Overseas Service / Combat Service:** None

f. **Awards and Decorations:** ASR

g. **Performance Ratings:** NA

h. **Disciplinary Action(s) / Evidentiary Record:** Charge sheet as described in previous paragraph 3c.

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

From "PDY" to "AWOL," effective 8 December 2000; and
From "AWOL" to "DFR," effective 7 January 2001.

i. **Lost Time / Mode of Return:** 2 months, 4 days (AWOL, 8 December 2000 – 12 February 2001) / Return to Military Control

j. Behavioral Health Condition(s):

(1) **Applicant provided:** Letter of support from First Sergeant retired C.T., 11 May 2015, stating the applicant was a subject matter expert in their career field and a peer leader to the lower enlisted. The applicant's troubles started when they found their friend dead and the applicant's leadership failed to provide adequate leadership and gave the applicant a direct order to "Go AWOL." The applicant never received a negative counseling statement, which substantiates the applicant was beleaguered by leadership.

The applicant provided a letter from Doctor M.C., 10 April 2021, which states during the applicant's active-duty service, the veteran developed conditions after their discharge, resulting in a diagnosis. The applicant's illness had steadily affected every sphere of the veteran's life, including their social functioning, familial functioning, and occupational behaviors within 6 to 12 months of their discharge from active-duty service. The professional opinion of the provider was the veteran's diagnosis is completely disabling, and had undoubtedly been the case since at

least August 2015 and continuing to the present, to include from August 2015, through October 2018, and from October 2018, to the present.

Letter of support from SFC M.P., undated, states in their opinion, the applicant was one of the best, most respectful, and professional Soldiers they had the honor to serve with. As far as they can remember, at Fort Stewart, the applicant was going through tough times coping with the loss of a good friend. As far as the applicant's leadership went, it failed to help the applicant get the necessary help needed to get back on track. The leadership not only failed the applicant, but also failed the Army.

(2) AMHRR Listed: None

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: Online application; two DD Forms 293; self-authored letter, four letters of support; Health Assessment Review Questionnaire; Permanent Orders 237-3; Certificate of Appreciation; Picture of children the applicant coached; Employee Identification Card.

6. POST SERVICE ACCOMPLISHMENTS: The applicant sought treatment for their mental health and is currently employed and coaching little league football.

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 635-40 (Disability Evaluation for Retention, Retirement, or Separation), paragraph 4-3f(1), states enlisted Soldiers who are approved for discharge in lieu of trial by court-martial are ineligible for referral to the MEB and PEB phases of the DES (see AR 635-200). If the Soldier is in the DES process, the applicant's DES case will be terminated, and the Soldier is discharged in lieu of trial by court-martial.

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

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

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

f. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "KFS" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 10, In Lieu of Trial by Court-Martial.

g. Army Regulation 601-210, (Regular Army and Reserve Components Enlistment Program), governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes: RE-4 Applies to: Person separated from last period of service with a nonwaiverable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment

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

The applicant requests an upgrade to honorable.

The evidence in the applicant's Army Military Human Resource Record (AMHRR) confirms the applicant was charged with the commission of an offense punishable under the UCMJ with a punitive discharge. The applicant, in consultation with legal counsel, voluntarily requested, in writing, a discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial. In this request, the applicant admitted guilt to the offense, or a lesser included offense, and indicated an understanding an under other than honorable conditions discharge could be received, and the discharge would have a significant effect on eligibility for veterans' benefits. The general (under honorable conditions) discharge received by the applicant was normal and appropriate under the regulatory guidance.

The applicant contends their mental health conditions started while on active duty in April 2000. However, since being off active duty, they have been diagnosed with PTSD, major depression, and anxiety by three different psychiatrists and one psychologist. These conditions started while on active duty after finding a friend's body in the barracks room after they committed suicide. The applicant provided a letter from Doctor M.C., 10 April 2021, to support the contention the

conditions developed during the applicant's active-duty service. The applicant developed an illness since their discharge which has steadily affected every sphere of the applicant's life, including their social functioning, familial functioning, and occupational behaviors. The professional opinion of the provider was the applicant's diagnosis, is completely disabling, and this had undoubtedly been the case since at least August 2015 and continuing to the present, to include from August 2015, through October 2018, and from October 2018 to the present. The applicant's AMHRR is void of a mental status report.

The applicant contends their superiors did not allow them to seek treatment for these conditions; instead, they discharged the applicant with an under-other than honorable condition discharge for no reason. The applicant provided two letters of support, the first from First Sergeant retired C.T., 11 May 2015, stating, in part, the applicant's troubles started when they found their friend dead and the applicant's leadership failed to provide adequate leadership and gave the applicant a direct order to "Go AWOL." SFC M.P., states as far as they can remember, at Fort Stewart, the applicant was going through tough times coping with the loss of a good friend. As far as the applicant's leadership went, it failed to help the applicant get the necessary help needed to get back on track. The leadership failed the applicant, but also failed the Army. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends good service, including a combat tour. The applicant provided two letters of support which spoke highly of the applicant's character and work ethic.

The applicant requests adding their deployment to Kuwait and Good Conduct Medal to their DD Form 214. The applicant's requested changes to the DD Form 214 do 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 seeking treatment for their mental health and is currently employed and coaching little league football. 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 that, after considering the Board's Medical Advisor's opine, reviewing the applicant's DOD and VA health records, the applicant's statement, and/or civilian provider documentation, the applicant has the following potentially mitigating diagnoses/experiences: PTSD. Additionally, the applicant asserts Major Depressive Disorder, Anxiety, and Panic Disorder, which may be sufficient evidence to establish the existence of a condition that could mitigate or excuse the discharge.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board found that, based on the Board's Medical Advisor opine, the applicant is diagnosed and service connected by the VA for PTSD. Service connection establishes that the applicant's PTSD

existed during military service. The applicant self-asserts that the Major Depressive Disorder, Anxiety, and Panic Disorder, that were formally diagnosed post-service existed during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board applied liberal consideration, to include considering the Board's Medical Advisor opine that the applicant's behavioral health conditions mitigate the discharge. Given the nexus between PTSD and avoidance, the AWOL that led to the applicant's separation is mitigated. The applicant's post-service diagnoses of Major Depressive Disorder, Generalized Anxiety Disorder, and Panic Disorder are inconsequential to the case given the full mitigation for the applicant's service connected PTSD.

(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 AWOL offense.

b. Response to Contention(s):

(1) The applicant contends their mental health conditions started while on active duty in April 2000. However, since being off active duty, they have received a diagnosis by three different psychiatrists and one psychologist. These conditions started while on active duty after finding a friend's body in the barracks room after they committed suicide. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder outweighed the applicant's AWOL offense. Therefore, a discharge upgrade is warranted.

(2) The applicant contends their superiors did not allow them to seek treatment for these conditions; instead, they discharged the applicant with an under-other than honorable condition discharge for no reason. The Board considered this contention during proceedings, but determined that there is no evidence to support the contention.

(3) The applicant contends good service, including a combat tour. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's AWOL offense.

(4) The applicant requests adding their deployment to Kuwait and Good Conduct Medal to their DD Form 214. The Board determined that the applicant's requested change to the DD Form 214 does not fall within the purview of the ADRB. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using a DD Form 293 regarding this matter. A DD Form 293 may be obtained online at <https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd0293.pdf> or from a Veterans' Service Organization.

(5) The applicant contends seeking treatment for their mental health and currently employed and coaching little league football. The Board is glad to hear that the applicant is seeking treatment and contributing in the community but ultimately did not address the contention due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's AWOL offense.

c. The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's AWOL offense. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable

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AR20210001229

and changed to the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code to RE-3.

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 outweighed the applicant's AWOL offense. Thus, the prior characterization is no longer appropriate.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

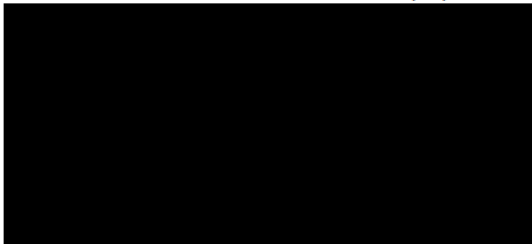
(3) The RE code will change to RE-3 due to the applicant's behavioral health conditions requiring a review prior to any reentry into military service.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: Yes**
- b. Change Characterization to: Honorable**
- c. Change Reason / SPD Code to: Misconduct (Minor Infractions)/JKN**
- d. Change RE Code to: RE-3**
- e. Change Authority to: AR 635-200**

Authenticating Official:

5/24/2024



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