

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 because of the applicant's emotional and mental health, the decision to discharge the applicant was unfair. The applicant contends the medical board diagnosed the applicant with adjustment disorder, PTSD, anxiety, and TBI. According to the applicant's latest diagnosis, the applicant thinks schizophrenia was present during the applicant's time on active duty.

b. **Board Type and Decision:** In a records review conducted on 25 April 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Schizophrenia outweighing the applicant's pattern of misconduct. 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. 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 detail regarding the Board's decision.*

(Board member names available upon request)

3. DISCHARGE DETAILS:

a. **Reason / Authority / Codes / Characterization:** Pattern of Misconduct / AR 635-200, Chapter 14-12b / JKA / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 9 May 2013

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 20 March 2013

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant had a history and continued pattern of misconduct including discreditable involvement with military and conduct prejudicial to good order and discipline.

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

(4) **Legal Consultation Date:** 26 March 2013

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

(6) Separation Decision Date / Characterization: 5 April 2013 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 25 April 2011 / 4 years
- b. **Age at Enlistment / Education / GT Score:** 19 / High School Graduate / 102
- c. **Highest Grade Achieved / MOS / Total Service:** E-3 / 25L10, Cable Systems Installer/Maintainer / 2 years, 15 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** SWA / Afghanistan (17 December 2011 – 3 July 2012)
- f. **Awards and Decorations:** NDSM, ACM-2CS, GWOTSM, ASR, OSR, NATOMDL
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** Military Police Report, 20 November 2012, reflects the applicant was apprehended for: Communicating a threat (on post).

Memorandum For Commander Legal Review, 15 April 2013, reflects all Soldiers being considered for separation under AR 635-200, Chapter 14, must undergo a physical examination and a mental status evaluation IAW AR 635-200, Paragraph 1-32. The physical examination and mental status evaluation included in the packet were incomplete and were not current, as they failed to address the findings of the applicant's Medical Evaluation Board(MEB), 12 February 2013. The packet must contain current and complete medical and mental health documents to achieve legal sufficiency. IAW AR 635-200, Paragraph 1-33, administrative separation proceedings will continue during the MEB process, but final action on the separation cannot be taken until the Commanding General (CG) has made a decision regarding the applicant's medical condition through the MEB. If the CG refers the applicant to the Physical Disability System because of the MEB process and the applicant is ultimately found physically unfit, the separation action will be terminated. If the applicant is retained after this process, final action may be taken on the separation action IAW AR 635-200, Paragraph 1-33b. In determining whether to refer the applicant to the Physical Disability System, the CG should consider the MEB found the applicant to be fit for duty.

Memorandum For Commander Legal Review, 22 April 2013, reflects the applicant's separation packet was legally sufficient to support separation under AR 635-200, Paragraph 14-12b. The infractions detailed in the packet constitute a pattern of misconduct within the meaning of AR 635-200, Paragraph 14-12b. The applicant had been adequately counseled and given a reasonable opportunity to improve. The applicant had been informed of their rights and had been given an opportunity to consult with counsel. The recommended characterization of service, general (under honorable conditions), is authorized under this chapter. In the previous legal review, 15 April 2013, pointed out the applicant's physical examination and mental status evaluation were incomplete and were not current. It should be noted, while the relevant documents now contain the appropriate information, the original dates remain on the forms, and it was clear very little effort went into remedying the deficiencies. This was not fatal to the instant action, as the packet contains the necessary information for legal sufficiency. However, the

rushed nature of the remedial action and apparent lack of attention to detail was mildly disturbing.

Numerous Developmental Counseling Forms, for various acts of misconduct.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Medical Evaluation Board (MEB) Narrative Summary, 11 December 2012, reflects the applicant is competent for military pay purposes and able to participate in administrative proceedings of the MEB/PEB, IDES. The applicant is not dangerous to self or others due to a mental illness. The applicant has engaged in violent and threatening behavior towards others which is attributable to willful misconduct. The evaluation included a medical diagnosis.

Medical Records consultation sheet, 21 January 2015, reflects a medical diagnosis.

(2) AMHRR Listed: Report of Medical History, 4 February 2013, the examining medical physician noted the applicant's medical conditions in the comments section. The evaluation included a diagnosis.

Report of Medical Examination, 4 February 2013, the examining medical physician noted the applicant's medical conditions in the comments section. The evaluation included a diagnosis.

Report of Mental Status Evaluation, 15 February 2013, 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 command was advised to consider the influence of these conditions. The evaluation included a diagnosis.

Physical Profile 16 April 2013, reflects the applicant had medical conditions limiting their duties.

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; medical records; MEB Narrative Summary and two letters of support.

6. POST SERVICE ACCOMPLISHMENTS: The applicant sought treatment from the VA.

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.

e. Paragraph 1-33a, provides except in separation actions under chapter 10 and as provided in paragraph 1–33b, disposition through medical channels takes precedence over administrative separation processing.

f. Paragraph 1-33b (in effect at the time of the discharge), prescribes when the medical treatment facility (MTF) commander or attending medical officer determines that a Soldier being processed for administrative separation under chapters 7 (see sec IV), or 14, does not meet the medical fitness standards for retention (see AR 40–501, chapter 3), he/she will refer the Soldier to a Medical Evaluation Board (MEB) in accordance with AR 40–400. The administrative Separation proceedings will continue, but final action by the separation authority will not be taken, pending the results of MEB. If the MEB findings indicate that referral of the case to a physical evaluation board (PEB) is warranted for disability processing under the provisions of AR 635–40, the MTF commander will furnish copies of the approved MEB proceedings to the Soldier's GCMCA and unit commander. The GCMCA may direct, in writing, that the Soldier be processed through the physical disability system when action under the UCMJ has not been initiated, and one of the following has been determined: The Soldier's medical condition is the direct or substantial contributing cause of the conduct that led to the recommendation for administrative elimination. Other circumstances of the individual case warrant disability processing instead of further processing for administrative separation. The authority of the GCMCA to determine whether a case is to be processed through medical disability channels or under administrative separation provisions will not be delegated. The GCMCA's signed decision to process a Soldier through the physical disability system will be transmitted to the MTF commander as authority for referral of the case to a PEB. Copies of the GCMCA's decision will be furnished to the unit commander and included in the administrative separation proceedings. The unit commander will suspend processing of the administrative separation action pending the PEB. If the Soldier is found physically fit, the administrative separation action will be resumed. If the Soldier is found physically unfit, the administrative separation action will be abated.

(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 14-12b, addresses a pattern of misconduct consisting of either discreditable involvement with civilian or military authorities or discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct found in the Uniform Code of Military Justice, Army Regulations, the civilian law and time-honored customs and traditions of the Army.

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

h. 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 because of their emotional and mental health, the decision to discharge them was unfair. The applicant contends, their medical board diagnosed them with adjustment disorder, PTSD, anxiety, and TBI. According to the applicant's latest diagnosis, they think their schizophrenia was present during their time on active duty. The applicant provided a Medical Evaluation Board (MEB) Narrative Summary, 11 December 2012, reflecting the applicant was not dangerous to self or others due to a mental illness. The applicant had engaged in violent and threatening behavior towards others which was attributable to willful misconduct. The provider stated these issues were not due to any Axis I mental health disorder and recommended the command address these as problems with conduct and violations of UCMJ. There was no support for there being any clinical correlation between the current behavioral problems and any problems with depression, anxiety or a traumatic stress disorder. The evaluation included a medical diagnosis. Also, Medical Records consultation sheet, 21 January 2015, reflects the applicant made comments about hearing voices and was placed on medications in January 2013, indicating the applicant's issues started before being discharged from the military. The applicant provided two letters of support which reflect the applicant's current level of functioning is significantly lower than it was upon discharge from the military, noting a decline in health over the last year. Noting increasingly disorganized behavior over the last year. The AMHRR Includes a Report of Medical History and Examination, 4 February 2013, the examining medical physician noted the applicant's medical conditions in the comments section, which included a diagnosis. A Report of Mental Status Evaluation, shows the applicant underwent a mental status evaluation (MSE) on 15 February 2013, which indicates the applicant was mentally responsible and recognized right from wrong. The MSE does not indicate any diagnosis. Also, a Physical Profile, 16 April 2013, reflects the applicant had medical conditions limiting their duties. The separation authority considered the Report of Medical History and

Examination; the mental status evaluation and profile. The applicant's AMHRR is void of any decision from the GCMCA as prescribed by AR 635-200, paragraph 1-33, in effect at the time of the discharge, directing the applicant's case be processed through the administrative discharge procedures rather than the physical disability system.

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: Schizophrenia, Adjustment Disorder, Depression, Anxiety, and Traumatic Brain Injury.

(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, Depression, Anxiety, and TBI. The applicant is diagnosed and service-connected by the VA for Disorganized Schizophrenia. Service connection establishes that the applicant's Disorganized Schizophrenia 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 given that Schizophrenia is a serious mental illness that is characterized by being out of touch with reality and significantly impacts judgment, behavior, and functioning, the applicant's Schizophrenia clearly contributed the applicant's pattern of misconduct that led to separation and therefore, mitigates all of the misconduct that led to the separation. The applicant's other BH conditions are inconsequential given the full mitigation for Schizophrenia.

(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 Schizophrenia outweighed the applicant's pattern of misconduct.

b. Response to Contention(s) The applicant contends because of emotional and mental health, the decision to discharge the applicant was unfair. The applicant contends, the medical board diagnosed the applicant with adjustment disorder, PTSD, anxiety, and TBI. According to the applicant's latest diagnosis, the applicant thinks the schizophrenia was present during time on active duty. The Board liberally considered this contention and determined that the applicant's Schizophrenia outweighed the applicant's pattern of misconduct. Therefore, a discharge upgrade is warranted.

c. The Board determined the discharge is inequitable based on the applicant's Schizophrenia outweighing the applicant's pattern of misconduct. 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. The Board determined the reentry code is proper and equitable and voted not to change it.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001248

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Schizophrenia outweighed the applicant's pattern of misconduct. 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 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:** 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:

5/23/2024



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