

**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 a great Soldier up to the date of the discharge. The applicant excelled in everything they did in the Army and had just received a good conduct medal. The applicant became sick with body rashes and suffered from depression. The applicant was also diagnosed with severe stress and suicidal intentions. The medicine made the applicant drowsy and was causing a drop in job performance. One day the applicant swapped duty with another Soldier and the Soldier reported to work late. This was the first occasion when the applicant was in trouble. The applicant received an Article 15 for going to see the parent in the hospital without a mileage pass and shortly after was discharged. The applicant was sick from various illness and suffering from joint pain, but still maintained their military bearing. The unit commander assured the applicant would receive an honorable discharge, so the applicant did not have to wait for a discharge review board and could be with the dying parent in Los Angeles. The applicant wants a discharge upgrade to use the education benefits and have their child receive the Post 9/11 GI Bill for college.

b. **Board Type and Decision:** In a records review conducted on 7 March 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder (PTSD) and Depression outweighing the applicant's FTR, failure to obey a lawful order, and disrespect toward an NCO 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 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:** 13 May 2013

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 19 April 2013

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

On 5 September 2012, the applicant was disrespectful toward SGT C. when asked to do corrective training, the applicant's response was, "I'm leaving and going home;"

On 18 September 2012, the applicant failed to follow orders to bring their "C-Bag" to 0900 formation;

On 25 November, the applicant failed to report for the CQ Shift at 0900 at the 4-501 COF;

On 26 November 2012, the applicant failed to report for duty at 0800, as well as, traveled outside the 150 mile radius without a mileage pass; and,

On 17 February 2013, the applicant failed to report to Staff Duty at 0900.

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

**(4) Legal Consultation Date:** 22 April 2013 and 6 May 2013

**(5) Administrative Separation Board:** On 6 May 2013, the applicant unconditionally waived consideration of the case before an administrative separation board.

**(6) Separation Decision Date / Characterization:** 6 May 2013 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 1 April 2008 / 6 years

**b. Age at Enlistment / Education / GT Score:** 41 / High School Graduate / 97

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 15R10, AH-64 Attack Helicopter Repairer / 7 years, 5 months, 19 days

**d. Prior Service / Characterizations:** The applicant's DD Form 214 reflects the applicant had prior active and inactive service; however, the AMHRR is void of enlistment documents prior to 1 April 2008.

**e. Overseas Service / Combat Service:** Korea, SWA / Afghanistan (2 December 2008 – 1 December 2009)

**f. Awards and Decorations:** ARCOM, AGCM-2, NDSM-BS, NDSM, ACM-2CS, GWOTSM, KDSM, NCOPDR, ASR, OSR-2, NATOMDL

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** CG Article 15, 22 January 2013, for failing to go at the time prescribed to the appointed place of duty on or about 25 November 2012. The punishment consisted of extra duty for four days.

FG Article 15, 1 March 2013, for failing to obey a lawful general regulation by going outside the 150 mile radius without a mileage pass on or about 22 January 2013. The punishment consisted

of a reduction to E-3; forfeiture of \$1007 pay per month for two months (suspended); extra duty for 45 days; oral reprimand.

Several Developmental Counseling Forms, for various acts of misconduct.

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

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

**(1) Applicant provided:** Emergency Physician Record, 11 October 2012, reflects a diagnosis.

**(2) AMHRR Listed:** Report of Mental Status Evaluation, 13 March 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 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 form reflects a diagnosis.

Report of Medical History, 14 March 2013, 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. APPLICANT-PROVIDED EVIDENCE:** DD Form 293; Emergency Physician Record; DD Form 214.

**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 14-12b 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.

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 "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.

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 good service, including receiving the good conduct medal and serving a combat tour. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends getting sick with body rashes and suffering from depression; and was diagnosed with severe stress and suicidal intentions and the medication prescribed made the applicant drowsy causing a drop in job performance. The applicant provided Emergency Physician Record, 11 October 2012, which reflects a diagnosis. The AMHRR shows the applicant underwent a mental status evaluation (MSE) on 13 March 2013, which 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 form reflects a diagnosis. Report of Medical History, 14 March 2013, the examining medical physician noted the applicant's medical conditions in the comments section. The MSE and Report of Medical History were considered by the separation authority.

The applicant contends swapping duty with another Soldier but, the Soldier reported for duty late. The applicant also was also in trouble for going to see the dying parent in the hospital without a mileage pass. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends the unit commander assured them they would receive an honorable discharge and the applicant did not have to wait for Separation Board so the applicant could be with their dying parent. The AMHRR reflects the Commander and chain of command recommended a general (under honorable conditions) characterization and on 6 May 2013, the applicant waived consideration the case by an administrative separation board. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends an upgrade would allow the applicant to use the educational benefits and have the child receive the Post 9/11 GI Bill. Eligibility for veteran's benefits to include educational benefits under the Post-9/11 or Montgomery GI Bill does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

#### **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, the applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: Adjustment Disorder, Depression, and PTSD.

(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 and Depression. The applicant is also diagnosed and service connected by the VA for PTSD. Service connection establishes that the applicant's PTSD 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 the applicant's BH conditions mitigate the basis of separation. Given the nexus between PTSD, Depression, and avoidance, the applicant's FTRs are mitigated. And given the nexus between PTSD and difficulty with authority, the disrespect and failing to follow orders are also mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the applicant's PTSD and Depression outweighed the applicant's FTR, failure to obey a lawful order, and disrespect toward an NCO offenses.

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

(1) The applicant contends getting sick with body rashes and suffering from depression and being diagnosed with severe stress and suicidal intentions. The medication prescribed made the applicant drowsy causing a drop in job performance. The Board liberally considered this contention and the totality of the evidentiary record (including medical records). The Board determined that the applicant's PTSD and Depression outweighed the applicant's FTR, failure to obey a lawful order, and disrespect toward an NCO offenses.

(2) The applicant contends good service, including receiving the good conduct medal and serving a combat tour. The Board considered the totality of the applicant's service record, but ultimately did not address this contention further due to an upgrade being granted based on medical mitigation.

(3) The applicant contends swapping duty with another Soldier; however, the Soldier reported for duty late. The applicant was also in trouble for going to see a dying parent in the hospital without a mileage pass. The Board considered this contention during proceedings, but ultimately did not address it due to an upgrade being granted based on the applicant's PTSD and Depression outweighing the applicant's FTR, failure to obey a lawful order, and disrespect toward an NCO offenses.

(4) The applicant contends the unit commander assured them they would receive an honorable discharge and the applicant did not have to wait for Separation Board so the applicant could be with their dying parent. The Board considered this contention during proceedings, but ultimately did not address it due to an upgrade being granted based on the applicant's PTSD and Depression outweighing the applicant's FTR, failure to obey a lawful order, and disrespect toward an NCO offenses.

(5) The applicant contends an upgrade would allow the applicant to use the educational benefits and have the child receive the Post 9/11 GI Bill. The Board considered this contention and determined that eligibility for Veteran's benefits does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

**c.** The Board determined the discharge is inequitable based on the applicant's PTSD and Depression outweighing the applicant's FTR, failure to obey a lawful order, and disrespect toward an NCO 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.

**d. Rationale for Decision:**

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's PTSD and Depression outweighed the applicant's FTR, failure to obey a lawful order, and disrespect toward an NCO offenses. Thus, the prior characterization is no longer appropriate.

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

**AR20210001253**

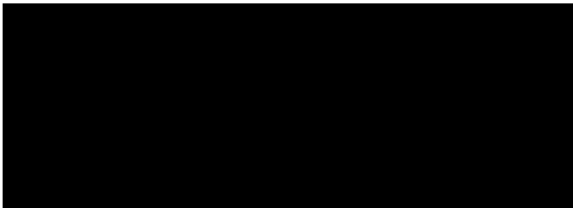
(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts. Thus, the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

(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:**



**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