

**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 honorable. The applicant requests a narrative reason change, an SPD code change, and an RE code change.

The applicant seeks relief contending, in effect, being honored with multiple accolades for their contributions. The applicant made a terrible choice and was arrested for driving while intoxicated. The applicant was punished by a civilian court; received an Article 15; a GOMOR and reduction in rank. The applicant does not believe one conviction for a misdemeanor traffic incident and their commander indicating inconsistencies in their performance as a Soldier and a leader while they were suffering from PTSD qualifies as serious misconduct and warrants a general (under honorable conditions) discharge. The applicant contends being treated for PTSD at Fort Drum and going through marital difficulties.

b. **Board Type and Decision:** In a records review conducted on 14 March 2024, and by a 5-0 vote, the Board, based on the applicant's depression and PTSD diagnoses mitigating the applicant's DUI basis for separation, determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), and the separation code to JKN. The Board determined the characterization of service was proper and equitable and voted not to change it due to applicant's PTSD and depression diagnoses warranting consideration prior to reentry of military service.

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

*(Board member names available upon request)*

**3. DISCHARGE DETAILS:**

a. **Reason / Authority / Codes / Characterization:** Misconduct (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-3 / Honorable

b. **Date of Discharge:** 30 December 2010

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 21 October 2010

(2) **Basis for Separation:** The applicant was informed of the following reasons: Operated a motor vehicle while under the influence of alcohol on 30 July 2010.

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

**(4) Legal Consultation Date:** On 4 November 2010, the applicant waived legal counsel.

**(5) Administrative Separation Board:** On 4 November 2010, the applicant conditionally waived consideration of the case before an administrative separation board, contingent upon receiving a characterization of service no less favorable than general (under honorable conditions) discharge.

**(6) Separation Decision Date / Characterization:** 9 December 2010 / General (Under Honorable Conditions)

#### 4. SERVICE DETAILS:

**a. Date / Period of Enlistment:** 29 April 2008 / 6 years

**b. Age at Enlistment / Education / GT Score:** 29 / GED / 96

**c. Highest Grade Achieved / MOS / Total Service:** E-5 / 11B24, Infantryman / 9 years, 3 months, 4 days

**d. Prior Service / Characterizations:** RA, 27 September 2001 – 28 September 2003 / HD  
RA, 29 September 2003 – 3 March 2005 / HD  
RA, 4 March 2005 – 28 April 2008 / HD

**e. Overseas Service / Combat Service:** Hawaii, SWA / Afghanistan (20 April 2004 – 20 April 2005); Iraq (13 August 2006 – 31 October 2007; 15 October 2009 – 28 June 2010)

**f. Awards and Decorations:** ACM-CS, ICM-3CS, ARCOM, AAM-2, AGCM-2, NDSM, GWOTSM, NCOPDR, ASR, OSR-3, CIB

**g. Performance Ratings:** 1 May 2007 – 31 May 2010 / Fully Capable

**h. Disciplinary Action(s) / Evidentiary Record:** FG Article 15, 14 October 2010, on or about 30 July 2010, physically control a vehicle, to wit: a passenger car, while the alcohol concentration in their breath was, as shown by chemical analysis, equal to or exceeded .10 grams of alcohol per 210 liters of breath. The punishment consisted of a reduction to E-4; forfeiture of \$1,146; and extra duty; restriction for 45 days and oral reprimand.

General Officer Memorandum Of Reprimand, 12 October 2010, reflects the applicant was driving a motor vehicle on, 30 July 2010, in the Town of Pierce field, New York, with a blood alcohol content of .08 percent or higher. These actions are in violation of New York State law and the Uniform Code of Military Justice. It is indeed a matter of serious concern a noncommissioned officer would act in such an irresponsible manner.

Two Developmental Counseling Forms, for safety and insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer.

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

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

**(1) Applicant provided:** Report of Mental Status Evaluation (MSE), 27 August 2010, 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.

Medical Health Records, 13 May 2009, reflects a medical diagnosis.

VA Rating decision, 19 February 2014, reflects a service connection of 30 percent.

**(2) AMHRR Listed:** MSE as described in previous paragraph 4j(1).

*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; VA Rating Decision; medical records; separation file.

**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 3-5c, provides the reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior other than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization.

(3) 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.

(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 contends the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12c, AR 635-200 with an honorable discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Misconduct (Serious Offense)," and the separation code is "JKQ." Army Regulation 635-8 (Separation Processing and Documents), governs the preparation of the DD Form 214, and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be as listed in tables 2-2 or 2-3 of AR 635-5-1 (Separation Program Designator (SPD) Codes). The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant contends being treated for PTSD at Fort Drum. The applicant provided Medical Health Records, 13 May 2009, which reflects a medical diagnosis. A Report of Mental Status Evaluation (MSE), 27 August 2010, 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. Also, VA Rating Decision, 19 February 2014, reflects a service connection of 30 percent. The AHMRR includes the MSE previously described above, which the separation authority considered.

The applicant contends family issues affected behavior and ultimately caused the discharge. There is no evidence in the AMHRR the applicant ever sought assistance before committing the misconduct, which led to the separation action under review.

The applicant contends the event which led to the discharge from the Army was an isolated incident. Army Regulation 635-200, paragraph 3-5, in pertinent part, stipulates there are circumstances in which the conduct or performance of duty reflected by a single incident provides the basis for a characterization.

The applicant contends good service, including three combat tours.

#### **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, Anxiety Disorder NOS, Depression, 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, Anxiety Disorder NOS, 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 actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that there is evidence of multiple BH conditions that provide mitigation for the basis of separation. The applicant was diagnosed in service with an Adjustment Disorder, Anxiety Disorder NOS, and Depression. The applicant is also diagnosed and service connected by the VA for PTSD. Given the nexus between Depression, PTSD, and self-medicating with substances, the DUI that led to the applicant's separation is mitigated.

**(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 depression and PTSD outweighed the DUI basis for separation.

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

**(1)** The applicant contends the narrative reason for the discharge needs changed. The Board considered this contention and determined the applicant's narrative reason for discharge is inequitable and voted to change it to Misconduct (Minor Infractions) due to the applicant's depression and PTSD diagnoses mitigating the applicant's DUI charges.

**(2)** The applicant contends family issues affected behavior and ultimately caused the discharge. 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 depression and PTSD fully outweighing the applicant's DUI basis for separation.

**(3)** The applicant contends the event which led to the discharge from the Army was an isolated incident. 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 depression and PTSD fully outweighing the applicant's DUI basis for separation.

(4) The applicant contends good service, including three combat tours. The Board recognizes and appreciates the applicant's willingness to serve and considered this contention during board proceedings along with the totality of the applicant's service record. Ultimately, the Board did not address the contention due to an upgrade being granted based on the applicant's depression and PTSD fully outweighing the applicant's DUI basis for separation.

c. The Board, based on the applicant's depression and PTSD diagnoses mitigating the applicant's DUI basis for separation, determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), and the separation code to JKN. The Board determined the characterization of service was proper and equitable and voted not to change it due to applicant's PTSD and depression diagnoses warranting consideration prior to reentry of military service. However, the applicant may request a personal appearance hearing to address further issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

d. Rationale for Decision:

(1) The Board determined the discharge is proper and equitable as a prior ADRB has upgraded the discharge with a Characterization of Honorable, therefore no further relief is available.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) due to the applicant's depression and PTSD diagnoses mitigating the applicant's DUI charges, 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 due to applicant's PTSD and depression diagnoses warranting consideration prior to reentry of 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:** No Change
- e. **Change Authority to:** AR 635-200, paragraph 14-12a

**Authenticating Official:**

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

**AR20210001269**

5/3/2024



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