

**1. Applicant's Name:** [REDACTED]

- a. **Application Date:** 26 April 2021
- b. **Date Received:** 26 April 2021
- c. **Counsel:** None

**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

**a. Applicant's Requests and Issues:** The current characterization of service for the period under review is general (under honorable conditions). The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, the daily incomprehensible suffering caused by the cruel reality of existence involving a traumatic brain injury has taken a severe toll on the applicant, to the point of having wasted numerous years which passed slowly and agonizingly. The applicant frequently struggles with maintaining a consistent cognitive process. The condition and behavior are strange and odd, with no means of improving. A light pole landed on the top of their head several years ago, causing the problem. The pole was part of a tactical tent configuration which was used for a variety of reasons, including lighting the area around the tactical operations center (TOC) at night. Memory, judgment, and temperament all went vague almost immediately. It was merely the beginning of years of utter disorientation which progressed into hallucinogenic hysteria. Years of hallucinatory concepts of being another person, living a fictional life, plagued the applicant. The applicant needed to escape from the imaginary life, which is what brought the applicant to the Ireland Army Hospital. The applicant is frustrated and disgusted with the modern techniques employed to establish the state of a person's brain/spinal condition, which amount to nothing more than a series of questions or rudimentary motor skills testing. Scanners that evaluate brain activity must be provided to the applicant. Scanning services, such as positron emission tomography (PET) scans and computed tomography (CT or CAT) scans, are only available at non-government affiliated facilities, which require payment or health insurance for treatment and insurance. The applicant has no way of obtaining the required evaluations and therapy the VA doctors advised. The applicant attempted to gather statements from service members with whom the applicant deployed but was unsuccessful because of losing communication with them. One NCO attempted to aid in transferring the applicant to Fort Hood for medical treatment, but the chain of command made it apparent to everyone in the unit to not assist in any way, allowing the applicant to live in Iraq injured and in declining health. When compared to other injustices in life, the applicant's discharge may appear insignificant. The applicant seeks justice and will go to any length to obtain it. The applicant requests a medical discharge and the DD Form 214 and ERB to reflect time served from 18 July 2007 to 1 May 2009. The unit and duty station should indicate HHC, CAB 4ID, Fort Hood, and combat deployment to Camp Taji, Iraq should be reflected with an Iraq Campaign Medal according to AR 600-8-22, paragraph 2-17(a)-(e). The applicant further details the contentions in an allied self-authored statement submitted with the application.

**b. Board Type and Decision:** In a records review conducted on 8 February 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Schizophrenia and Depression 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. 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:** In Lieu of Trial by Court-Martial / AR 635-200, Chapter 10 / KFS / RE-4 / General (Under Honorable Conditions)

**b. Date of Discharge:** 18 October 2013

**c. Separation Facts:**

**(1) Date and Charges Preferred (DD Form 458, Charge Sheet):** On 22 August 2013, the applicant was charged with: Violation of the UCMJ, Article 86, for being AWOL on 1 February 2009 and remaining absent until 12 August 2013.

**(2) Legal Consultation Date:** 22 August 2013

**(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:** General (Under Honorable Conditions)

**(5) Separation Decision Date / Characterization:** 22 August 2013 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 18 July 2007 / 4 years

**b. Age at Enlistment / Education / GT Score:** 18 / High School Graduate / 120

**c. Highest Grade Achieved / MOS / Total Service:** E-3 / 15P10, Aviation Operations Specialist / 1 year, 8 months, 19 days

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

**e. Overseas Service / Combat Service:** SWA / Iraq (NIF)

**f. Awards and Decorations:** NDSM, ASR

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Personnel Action form reflects the applicant's duty status changed as follows: From "Dropped From Rolls (DFR)," to "Present for Duty (PDY)," effective 12 August 2013.

Charge sheet as described in previous paragraph 3c.

i. **Lost Time / Mode of Return:** 4 years, 7 months, 11 days (AWOL, 1 February 2009 – 12 August 2013) / Surrendered to Military Authorities

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

(1) **Applicant provided:** Four separate packets of medical records which predominantly reflect on a diagnosis of “Schizophrenia, paranoid type with delusional features” throughout the packets.

Report of Mental Status Evaluation, 30 August 2013, reflects the applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant was diagnosed with an Adjustment Disorder with Depressed Mood (by history).

Progress Notes (page 52 – Medical Records Part I), 28 October 2015, reflects the diagnosis as “Schizophrenia, paranoid type with delusional features.”

(2) **AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 149; DD For 293; self-authored statement; DD Form 214; and Deployment Orders. Additional Evidence: Four packets (Parts I to IV) of medical records.

**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 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 10-6 stipulates medical and mental examinations are not required but may be requested by the Soldier under AR 40–501, chapter 8.

(6) 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.)

(7) 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.

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 "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.

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-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 applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The evidence in the applicant's 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 the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 10, AR 635-200, with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "In Lieu of Trial by Court-Martial," and the separation code is "KFS." 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 the discharge should have been for medical reasons. Evidence in the AMHRR reflect the applicant voluntarily requested a discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial. On 22 August 2013, the separation authority accepted the applicant's request for discharge. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends suffering from a traumatic brain injury received while serving in Iraq and struggling with maintaining a continuous cognitive process caused by the TBI. The applicant's AMHRR contains no documentation of TBI diagnosis. The applicant provided several medical documents indicating a diagnosis of schizophrenia, paranoid type with delusional features, and prescribed medication. The applicant also provided a Mental Status Evaluation, 30 August 2013, which reflects the applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant was diagnosed with an Adjustment Disorder with Depressed Mood (by history).

The applicant contends having no means of obtaining the required evaluations and therapy the VA doctors advised. The issue the applicant submitted is not a matter upon which the Army Discharge Review Board grants a change in discharge. The issue raises no matter of fact, law, procedure, or discretion related to the discharge process.

The applicant contends while in Iraq, an NCO attempted to aid in transferring the applicant to Fort Hood for medical treatment, but the chain of command made it apparent to everyone in the unit to not assist in any way, allowing the applicant to live in Iraq injured and in decreasing health. 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'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.

## 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 Schizophrenia. Additionally, the applicant asserts TBI, 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'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 Schizophrenia. Service connection establishes that the applicant's Schizophrenia existed during military service. The applicant asserts having a TBI at the time of 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 behavioral health conditions do mitigate the applicant's misconduct. The applicant's Schizophrenia most likely contributed to the AWOL that led to the applicant's separation, which is clearly supported in the medical record. Depression also has a nexus with avoidance. Therefore, the applicant's AWOL is mitigated. The applicant's asserted TBI is inconsequential to the case given the full mitigation for Schizophrenia and Depression.

(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 Schizophrenia and Depression outweighed the applicant's AWOL offense.

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

(1) The applicant contends suffering from a traumatic brain injury received while serving in Iraq and subsequently struggling with maintaining a continuous cognitive process. The Board liberally considered this contention and determined that the applicant's Schizophrenia and Depression outweighed the applicant's AWOL offense. Therefore, the asserted TBI is inconsequential.

(2) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention during proceedings, but ultimately did not address it due to an upgrade being granted based on the applicant's Schizophrenia and Depression outweighing the applicant's AWOL offense.

(3) The applicant contends the discharge should have been for medical reasons and that administrative information in the applicant's DD Form 214 is incorrect. The Board determined that the applicant's requests for a medical discharge and for changes to administrative information on the DD Form 214 do not fall within the purview of the ADRB. However, the applicant may apply to the Army Board for Correction of Military Records (ABCMR) for consideration.

(4) The applicant contends having no means of obtaining the required evaluations and therapy the VA doctors advised. The Board considered this contention and determined that eligibility for Veteran's benefits do 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.

(5) The applicant contends while in Iraq, an NCO attempted to aid in transferring the applicant to Fort Hood for medical treatment, but the chain of command made it apparent to everyone in the unit to not assist in any way, allowing the applicant to live in Iraq injured and in decreasing health. The Board considered this contention, but ultimately did not address it due to an upgrade being granted based on the applicant's Schizophrenia and Depression outweighing the AWOL offense.

**c.** The Board determined the discharge is inequitable based on the applicant's Schizophrenia and Depression 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. Accordingly, the narrative reason for separation changed to Misconduct (Minor Infractions) with a corresponding

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

**AR20210001315**

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 Schizophrenia and Depression outweighed the applicant's AWOL offense. Therefore, 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. Therefore, the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

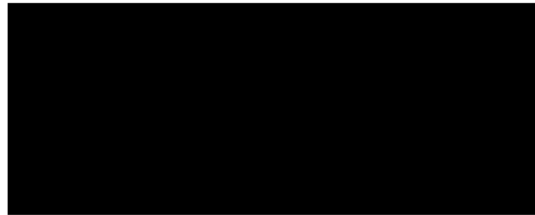
(3) The RE code will not change as the current code is consistent with the procedural and substantive requirements of the regulation.

**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:**

2/21/2024



**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