

**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 incidents used to qualify the applicant for discharge were accumulated over a three year period during which time the applicant deployed and was suffering from undiagnosed PTSD. At the time of the discharge, the applicant was not aware that PTSD was driving the behavior. After returning from Afghanistan, the applicant was using alcohol to gain relief, which was not healthy or indicative of who the applicant was as a Soldier or civilian. The use of alcohol to calm the hypervigilance, inability to sleep, depression, and anxiety became an addiction while the applicant was in the Army and subsequently helped ruin their career.

The applicant truly loved being a member of the greatest ground force in the world's history and intended to at least finish their obligation of four years of service. While the applicant was deployed their true colors came to light for which the applicant earned multiple battlefield promotions and two Army Commendation Medals. The Soldier who received those promotions and commendations exhibited the true character. The applicant admits fault for taking the easy route and drinking to calm the symptoms and because of this, the applicant became much less than the Soldier they were while in Afghanistan. The applicant states not a day goes by where they are not reminded of their grievous error.

b. **Board Type and Decision:** In a records review conducted on 30 November 2023, and by a 5-0 vote, the Board determined the discharge is inequitable based on the totality of service (length/quality/combat), PTSD, and Depression, outweighing the basis of separation. 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 eligibility (RE) code is proper and equitable.

*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:** 1 August 2011

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 6 June 2011

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

Drunk on duty (1 December 2008 and 15 November 2010); failing to report to the place of duty on seven occasions (between 21 October 2008 and 15 November 2010)

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

(4) **Legal Consultation Date:** NIF

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

(6) **Separation Decision Date / Characterization:** 30 June 2011 / General (Under Honorable Conditions)

#### 4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 9 April 2008 / 4 years, 25 weeks

b. **Age at Enlistment / Education / GT Score:** 25 / High School Graduate / 124

c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 91B10, Wheeled Vehicle Mechanic / 3 years, 3 months, 23 days

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

e. **Overseas Service / Combat Service:** SWA / Afghanistan (3 May 2009 – 4 April 2010)

f. **Awards and Decorations:** ARCOM-2, MUC, NDSM, ACM-2CS, GWOTSM, ASR, NATOMDL

g. **Performance Ratings:** NA

h. **Disciplinary Action(s) / Evidentiary Record:** CG Article 15, 24 January 2011, for failing to go at the time prescribed to the appointed place of duty on or about 15 November 2010 x 2; and for being drunk while on duty on or about 15 November 2010. The punishment consisted of a reduction to E-3, forfeiture of \$423 pay per month for one month (suspended), and extra duty with restriction for 14 days.

Numerous Developmental Counseling Forms for various acts of misconduct.

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

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

(1) **Applicant provided:** VA Decision letter, 29 September 2014, reflects the applicant was granted 70 percent service-connected disability for PTSD with alcohol use disorder.

(2) **AMHRR Listed:** Report of Behavioral Health Evaluation (BHE), 18 April 2011, reflects the applicant was mentally responsible with a clear-thinking process and had the mental capacity to understand and participate in the proceedings. The applicant was cleared for any

administrative actions deemed appropriate by command. The applicant had been screened for PTSD and TBI. These conditions were either not present or if present, do not meet AR 40-501 criteria for medical evaluation board. The applicant was diagnosed with: Axis I: Adjustment Disorder with Depression; Cannabis Abuse.

Report of Medical History, 20 April 2011, the examining medical physician noted in the comments section: LOC/Concussion, HTN, depression, sleep disturbance, and substance abuse.

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293; self-authored statement; VA Decision letter; DD Form 214; two award certificates; two DA Forms 638; three DD Forms 4187.

**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 PTSD), 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) 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.

(4) 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.

(5) 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 by the Board.

The applicant contends suffering from undiagnosed PTSD and later being diagnosed by the VA. The Board considered the active duty and VA medical records. The applicant provided a VA Decision letter, 29 September 2014, which reflects the applicant was granted 70 percent service-connected disability for PTSD with alcohol use disorder. The AMHRR contains Report of Behavioral Health Evaluation (BHE), 18 April 2011, which reflects the applicant was mentally responsible with a clear thinking process and had the mental capacity to understand and participate in the proceedings. The applicant was cleared for any administrative actions deemed appropriate by command. The applicant had been screened for PTSD and TBI. These conditions were either not present or if present, do not meet AR 40-501 criteria for medical evaluation board. The applicant was diagnosed with: Axis I: Adjustment Disorder with Depression; Cannabis Abuse. The BHE was considered by the separation authority. In the Report of Medical History, 20 April 2011, the examining medical physician noted in the comments section: LOC/Concussion, HTN, depression, sleep disturbance, and substance abuse.

The applicant contends good service, including earning battlefield promotions, two Army Commendation Medals, and serving a combat tour. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

#### **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, Generalized Anxiety Disorder, Depression, and PTSD.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found in service diagnoses of an Adjustment Disorder, Generalized Anxiety Disorder, and Depression. The applicant is also service connected by the VA for combat-related PTSD. Service connection establishes that the applicant's PTSD existed during military service.

(3) Does the condition or experience excuse or mitigate the discharge? **Partially.** The Board's Medical Advisor applied liberal consideration and opined that the applicant had pre-service substance abuse that appears to have been exacerbated by in service Depression, Anxiety, and service connected combat-related PTSD. The applicant's BH conditions provide partial mitigation for the basis of separation. Given the nexus between PTSD, Depression, and self-medicating with substances, the drunk on duty that occurred in November 2010 is mitigated. The drunk on duty from December 2008 is not mitigated due to it occurring prior to combat and the Depression/Generalized Anxiety Disorder diagnoses. Similarly, the FTR that occurred prior to May 2009 is not mitigated, but the FTRs that occurred after May 2009 are due to the nexus between PTSD, Depression, and avoidance.

(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 outweigh the drunk on duty that occurred in November 2010 and the FTRs that occurred after May 2009. However, the applicant's Adjustment Disorder, Generalized Anxiety Disorder, Depression, and PTSD do not outweigh the applicant's drunk on duty in December 2008 or the FTRs prior to May 2009. The Board considered the totality of the service record and determined that the unmitigated misconduct did not rise to a level that negated an Honorable characterization.

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

(1) The applicant contends suffering from undiagnosed PTSD and later being diagnosed by the VA. The Board considered the active duty and VA medical records and found that the applicant is diagnosed by the VA for combat-related PTSD. The Board considered this diagnosis during deliberation.

(2) The applicant contends good service, including earning battlefield promotions, two Army Commendation Medals, and serving a combat tour. The Board considered this contention and took the applicant's length/quality of service (to include combat service) into account during the deliberation process.

**c.** The Board determined the discharge is inequitable based on the applicant's PTSD, Depression, and totality of service outweighing the basis for separation. 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 voted and determined the RE code is proper and equitable due to applicant's behavioral health diagnoses.

**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 partially mitigate the basis of separation. The remaining misconduct did not necessarily rise to a level not warranting Honorable service,

especially considering the length/quality of total service. 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. The SPD code associated with the new reason for discharge is JKN.

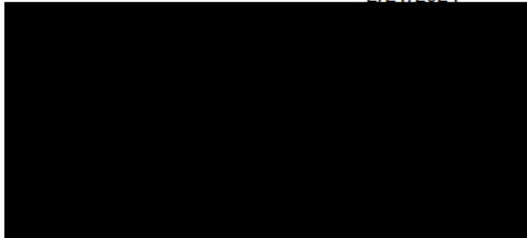
(3) The RE code will not change as the current code is proper and equitable due to the behavioral health diagnoses.

**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:**

2/21/2024



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