

**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.

The applicant seeks relief contending, in effect, the alcohol-related incidents began occurring after the applicant's deployment to Iraq. In 2010, the applicant was diagnosed with post-traumatic stress disorder (PTSD). One of the common symptoms of PTSD is alcohol and substance abuse used to self-medicate. At the time, the applicant did not know the applicant was self-medicating. After multiple treatment centers and therapy, the applicant understood what was going on. The Department of Veterans Affairs (VA) granted the applicant a 100 percent service-connection disability for PTSD. The discharge is preventing the applicant from using the GI Bill.

b. **Board Type and Decision:** In a records review conducted on 9 November 2023, and by a 5-0 vote, the Board, based on the applicant's PTSD diagnosis mitigating applicant's AWOL, FTR, and disrespect 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, along with the reentry eligibility (RE) code due to the severity of applicant's PTSD diagnosis and illicit substance abuse.

*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:** Alcohol Rehabilitation Failure / AR 635-200, Chapter 9 / JPD / RE-4 / Honorable

b. **Date of Discharge:** 3 April 2009

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 9 March 2009

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant failed to follow through with the treatment plan prescribed by the Alcohol / Drug Abuse Rehabilitation Team.

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

(4) **Legal Consultation Date:** 11 March 2009

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

**(6) Separation Decision Date / Characterization:** 19 March 2009 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

- a. **Date / Period of Enlistment:** 15 May 2007 / 3 years, 16 weeks
- b. **Age at Enlistment / Education / GT Score:** 20 / GED / 99
- c. **Highest Grade Achieved / MOS / Total Service:** E-3 / 11B10, Infantryman / 1 year, 10 months, 7 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** SWA / Iraq (9 January 2008 – 4 April 2008)
- f. **Awards and Decorations:** NDSM, ICM-CS, ASR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** Electronic Copy of DD Form 2624, 7 November 2008, reflects the applicant tested positive for COC>LOL (cocaine), during an Inspection Random (IR) urinalysis testing, conducted on 3 November 2008.

Company Grade Article 15, 19 December 2008, for on three occasions, failing to go at the time prescribed to the appointed place of duty (31 October and 1 and 2 November 2008). The punishment consisted of a reduction to E-2; forfeiture of \$352 pay; and extra duty and restriction for 14 days.

Field Grade Article 15, 2 February 2009, for failing to go at the time prescribed to the appointed place of duty (19 January 2009); being disrespectful in language and deportment to Staff Sergeant (SSG) F. P. a noncommissioned officer (NCO) (15 December 2008); and being disrespectful in deportment to Sergeant First Class (SFC) W. K., an NCO (15 December 2008). The punishment consisted of a reduction to E-1; forfeiture of \$699 pay per month for two months (suspended); and extra duty for 45 days.

Two Personnel Action forms, reflect the applicant's duty status changed as follows:

- From "Present for Duty (PDY)," to "Absent Without Leave (AWOL)," effective 13 February 2009; and
- From "AWOL" to "PDY," effective 24 February 2009.

Numerous Developmental Counseling Forms, for but not limited to:

- Using of illegal drugs, cocaine;
- Failing to report to duty on multiple occasions;
- Disobeying a lawful order, by leaving the recall mile radius; and
- Being disrespectful to SFC K. and SSG P.

i. **Lost Time / Mode of Return:** 12 days (AWOL, 13 February 2004 – 24 February 2004) / NIF

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

(1) **Applicant provided:** Department of Veterans Affairs (VA) Rating Decision, 18 September 2012, reflecting the VA rated the applicant 100 percent service-connected disabled for PTSD, with anxiety and suicidal intention.

(2) **AMHRR Listed:** Memorandum, subject: Summary of Army Substance Abuse Program Rehabilitation Efforts [Applicant], 19 December 2008, reflects the applicant's rehabilitation team met on 17 December 2008, and determined the applicant failed to comply with treatment plans and goals and because of a diagnosis of alcohol dependence. Further rehabilitation efforts in a military environment were not justified considering the applicant's lack of progress. Discharge from military service should be effected.

5. **APPLICANT-PROVIDED EVIDENCE:** DD Form 149; two DD Forms 293; two VA letters; VA Rating Decision; and VA Benefits letter.

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) Chapter 9 outlines the procedures for discharging individuals because of alcohol or other drug abuse. A member who has been referred to the Army Substance Abuse Program (ASAP) for alcohol or drug abuse may be separated because of inability or refusal to participate in, cooperate in, or successfully complete such a program if there is a lack of potential for continued Army service and rehabilitation efforts are no longer practical.

(4) Paragraph 9-4 stipulates the service of Soldiers discharged under this section will be characterized as honorable or under honorable conditions unless the Soldier is in entry-level status and an uncharacterized description of service is required. An honorable discharge is mandated in any case in which the Government initially introduces into the final discharge process limited use evidence as defined by AR 600-85.

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 "JPD" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 9, for Alcohol Rehabilitation Failure.

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 a change to the narrative reason. The current characterization of service for the period under review is honorable.

The evidence of Army Military Human Resource Record (AMHRR) indicates on 17 December 2008, the unit commander in consultation with the Clinical Director/Army Substance Abuse Program (ASAP), declared the applicant a rehabilitation failure. The applicant did not have the potential for continued military service. Further rehabilitation efforts in a military environment were not justified, considering the applicant's lack of progress.

The applicant contends the VA rated the applicant 100 percent service-connected disabled for PTSD and the condition affected behavior which led to the discharge. The applicant provided medical documents indicating a diagnosis of PTSD, with anxiety and suicidal intention. The applicant's AMHRR is void of a mental status evaluation.

The applicant contends an upgrade would allow educational benefits through the 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, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: PTSD, and Dysthymic Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant 100 percent service connected (SC) for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that as there is an association between PTSD and comorbid substance use to self-medicate symptoms, there is a nexus between the applicant's misconduct characterized by alcohol rehabilitation failure, as well as wrongful use of cocaine.

(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 PTSD outweighed the Alcohol rehabilitation failure and cocaine use basis for separation for the aforementioned reason(s).

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

(1) The applicant contends the VA rated the applicant 100 percent service-connected disabled for PTSD and the condition affected behavior which led to the discharge. The Board determined that this contention was valid and voted to upgrade the characterization of service due to PTSD mitigating the applicant's Alcohol rehabilitation failure and cocaine use basis for separation.

(2) The applicant contends an upgrade would allow educational benefits through the GI Bill. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, 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.

**c.** The Board, based on the applicant's PTSD diagnosis mitigating applicant's 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, along with the reentry eligibility (RE) code due to the severity of applicant's PTSD diagnosis and illicit substance abuse. 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 Character of Honorable, therefore no further relief is available.

(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 reentry eligibility (RE) code was proper and equitable due to the severity of applicant's PTSD diagnosis and illicit substance abuse.

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

**AR20210001453**

**10. BOARD ACTION DIRECTED:**

- a. Issue a New DD-214: Yes
- b. Change Characterization to: No Change
- 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:**

1/30/2024



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