

**1. Applicant's Name:** [REDACTED]**a. Application Date:** 26 April 2021**b. Date Received:** 26 April 2021**c. Counsel:** [REDACTED]**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, through counsel, requests a narrative reason change, separation code (SPD) change, and a reentry eligibility (RE) code change.

The applicant seeks relief contending, in effect, successfully completing many schools, training and tasks. The applicant received recognition through several awards for outstanding performances. The applicant is currently a full-time student at Vanguard University of Southern California and is working towards receiving a Bachelors in Biological Science to further education and go to medical school.

Until the applicant's fourth year in the Army, the applicant had not received any punitive actions, military or civilian and the applicant believed due to the outstanding performance, the applicant was untouchable and with the false belief, the applicant made the biggest mistake of their life. The mistake ended up costing the applicant the one thing the applicant held near and dear to the heart, their military career, job, the Soldiers. The day to day tasks assigned were what drove the applicant's spirit each day and the applicant deeply regrets the immature decision which led to the downturn of the career. The applicant was never given a proper trial which would give the Army conclusive grounds to separate the applicant. The applicant was separated without due process normally afforded Soldiers and prior to even being charged with the crime which the applicant allegedly committed.

The applicant's love for the Army is forever embedded deep within the applicant and the applicant continues to desire the need to serve. For this reason, the applicant chose to take their failures and learn from them to be a better leader for the future generation of Soldiers. The relationship the applicant has with their faith has deepened and played a great part in the applicant's transformation. Since the separation the applicant knows they have more to offer the military and the country and to express those changes through new action but needs the opportunity to do so. The applicant desires the great privilege of being allowed to reenlist in the United States Army and resume serving the country with distinction.

**b. Board Type and Decision:** In a records review conducted on 19 September 2024, and by a 5-0 vote, the Board determined the narrative reason for separation is 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 and RE-Code were proper and equitable and voted not to change them.

*Please see Section 9 of this document for more details 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 / JKC / RE-3 / Honorable

**b. Date of Discharge:** 14 August 2014

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 30 April 2014

**(2) Basis for Separation:** The applicant was informed of the following reasons: On or about 7 December 2013, the applicant was arrested for driving under the influence in Fort Bragg, North Carolina.

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

**(4) Legal Consultation Date:** 1 May 2014

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

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

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 18 October 2013 / 3 years

**b. Age at Enlistment / Education / GT Score:** 22 / High School Graduate / 106

**c. Highest Grade Achieved / MOS / Total Service:** E-5 / 92A20, Automated Logistical Specialist / 5 years, 1 month, 8 days

**d. Prior Service / Characterizations:** RA, 7 July 2009 – 17 October 2013 / HD

**e. Overseas Service / Combat Service:** None

**f. Awards and Decorations:** AAM, AGCM, NDSM, GWOTSM, NCOPDR, ASR

**g. Performance Ratings:** 1 January 2013 – 31 December 2013 / Fully Capable  
1 January 2014 – 10 August 2014 / Fully Capable

**h. Disciplinary Action(s) / Evidentiary Record:** General Officer Memorandum of Reprimand, dated 26 December 2013, reflects on 7 December 2013, the applicant was arrested on Fort Bragg, North Carolina, for driving while impaired after attempting to gain access through the Yadkin Road Access Control Point. Upon approaching the vehicle, the inspecting officer detected an odor of alcohol emitting from the applicant's person. The applicant was administered an intoximeter which determined the BAC to be .14 percent, which was over the legal limit authorized to operate a vehicle in the state of North Carolina.

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

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

**(1) Applicant provided:** ASAP Outpatient Aftercare Plan, dated 10 April 2014, reflects the applicant was enrolled in the ASAP on 6 January 2014 after a command referral following a DWI arrest with a BAC of 14 percent. The applicant reported drinking approximately two times weekly at the rate of six to seven drinks. The applicant attended Prime for Life six individual sessions and six group counseling sessions of direct substance abuse treatment. Solider denied drinking alcohol while in the program and reported no interest in resuming drinking at the previous patterns. The applicant reports a plan to follow low risk guidelines if the applicant decides to consume alcohol. No reported other substance use while in the program. Patient will be disenrolled from the program as a success.

**(2) AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293; attorney brief and enclosures 1 through 11.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant is currently a full-time student at Vanguard University of Southern California and is working towards receiving a Bachelors in Biological Science to further education and go into medical school.

**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 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 14-12c 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-1 Applies to: Person completing his or her term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

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.

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 narrative reason change, separation code (SPD) change, and a reentry eligibility (RE) code change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

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 a 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 the separation code (SPD) should be changed. Separation codes are three-character alphabetic combinations that identify reasons for, and types of, separation from active duty. The primary purpose of SPD codes is to provide statistical accounting of reasons for separation. They are intended exclusively for the internal use of DoD and the Military Services to assist in the collection and analysis of separation data. The SPD Codes are controlled by OSD and then implemented in Army policy AR 635-5-1 to track types of separations the SPD code specified by Army Regulations for a discharge under Chapter 14, paragraph 14-12c, is "JKQ."

The applicant desires to rejoin the Military Service. Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. Based on Army Regulation 601-201, the applicant was appropriately assigned an RE code of "3." There is no basis upon which to grant a change to the reason or the RE code. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes if appropriate.

The applicant contends good service. The Board will consider the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends successfully completing ASAP and should have been retained. Army Regulation 635-200, paragraph 1-17d(2), entitled counseling and rehabilitative requirements, states the separation authority may waive the rehabilitative requirements. The separation authority's decision memorandum reflects the separation authority waived further rehabilitative requirements.

The applicant contends being separated without due process normally afforded Soldiers and prior to being charged with the crime the applicant allegedly committed. The local policy in place at the time on Fort Bragg did not conform with Army wide policy on discipline and was discontinued shortly after. The "one strike and you're out" methodology is no longer Army policy. The policy under which the applicant was discharged differs in material respects from those currently applicable on a service-wide basis and there is substantial doubt that the applicant would have received the same discharge if currently implemented policies were in place. The current Army standard is processing for discharge after two alcohol related incidences in 12 months or for a second DWI during an Army career. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

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 circumstances in which the conduct or performance of duty reflected by a single incident provides the basis for a characterization.

The third-party statements provided with the application speak highly of the applicant. They all recognize the applicant's good conduct while serving and after leaving the Army.

The applicant is currently a full-time student at Vanguard University of Southern California and is working towards receiving a Bachelors in Biological Science to further the education to go into medical school. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

## **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 found that, based on the Board's Medical Advisor opine, a review of the applicant's DOD and VA health records, the applicant's statement, and/or civilian provider

documentation, the applicant has the following potentially mitigating diagnoses/experiences: Adjustment Disorder, Major Depressive Disorder, and TBI.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board found that, based on the Board's Medical Advisor opine, the applicant was diagnosed in service with an Adjustment Disorder and is service connected by the VA for Major Depressive Disorder and TBI. The service connection establishes that the Major Depressive Disorder and TBI also existed during military service.

(3) Does the condition or experience excuse or mitigate the discharge? **Yes.** The Board applied liberal consideration, to include consideration of the Board's Medical Advisor's opine, and determined that there is evidence of BH conditions that provide mitigation for the basis of separation. The applicant was diagnosed in service with an Adjustment Disorder and is service connected by the VA for Major Depressive Disorder and TBI. Given the nexus between Major Depressive Disorder, TBI, and self-medicating with substances, the applicant's Major Depressive Disorder and TBI mitigate the DUI separating offense.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board's Medical Advisor opine, the Board determined that the applicant's Major Depressive Disorder and TBI outweighed the applicant's DUI offense.

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

(1) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention and determined that it was valid based on the applicant's Major Depressive Disorder and TBI outweighing the DUI separating offense. The Board found that the narrative reason should change to Misconduct (Minor Infractions) as the applicant was involuntarily separated for misconduct. Additionally, the behavioral health condition does not fully excuse the applicant's responsibility for the misconduct.

(2) The applicant desires to rejoin the Military Service. The Board considered this contention and voted to maintain the RE-code at RE-3 based on the service-connected behavioral health diagnoses. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes, if appropriate.

(3) The applicant contends good service. The Board considered the entirety of the applicant's service record and found that that an Honorable characterization was already awarded by a previous board.

(4) The applicant contends successfully completing ASAP, warranting retention. The Board considered this contention and found that separation after successful completion of ASAP treatment is a decision within the discretion of the separation authority and that the separation authority did not abuse that discretion.

(5) The applicant contends being separated without the due process normally afforded to Soldiers and prior to even being charged with the crime the applicant allegedly committed. The Board considered this contention and found that the evidentiary record reflected that the applicant was afforded full administrative due process.

(6) The applicant contends the event which led to the discharge from the Army was an isolated incident. The Board found this contention valid but determined that further upgrade was not warranted based on the Honorable characterization awarded by a previous board.

(7) The applicant is currently a full-time student at Vanguard University of Southern California and is working towards receiving a Bachelors in Biological Science to further the education and go to medical school. The Board considered the applicant's post-service accomplishments and found that further upgrade was not warranted based on the Honorable characterization awarded by a previous board.

c. The Board determined the narrative reason for separation is inequitable based on the diagnosed MDD and TBI providing medical mitigation for the separating offenses. The Board further determined Misconduct (Minor Infractions)/JKN to be the proper narrative reason/SPD based on the applicant still having responsibility for the misconduct that occurred. 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 is proper and equitable as no further relief is possible. The RE-Code is proper and equitable based on the service-connected behavioral health diagnoses.

**d. Rationale for Decision:**

(1) The Board voted not to change the applicant's characterization of service as the applicant already holds an honorable characterization and further upgrade is not available.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) based on medical mitigation of the applicant's DUI offense. 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 based on the diagnosed service-connected behavioral health conditions. The current code is consistent with the procedural and substantive requirements of the regulation.

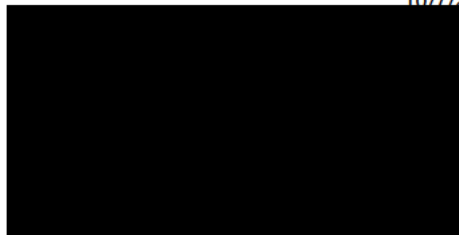


**10. BOARD ACTION DIRECTED:**

- a. Issue a New DD-214: Yes
- b. Change Characterization to: 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

**Authenticating Official:**

10/7/2024



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