

1. Applicant's Name: [REDACTED]**a. Application Date:** 8 October 2020**b. Date Received:** 5 January 2021**c. Representative:** [REDACTED]**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:****a. Applicant's Requests and Issues:**

(1) The current characterization of service for the period under review is under other than honorable conditions. The applicant requests an upgrade to honorable, a change of their separation code, reentry code, and the narrative reason for separation.

(2) The applicant states, through representative, they are requesting a discharge upgrade as a mental health condition, which existed at the time of their discharge, directly impacted the circumstances leading to an Under Other Than Honorable Conditions characterization. They were a model Soldier, exceptionally physically fit, hard-working, intelligent, an accomplished; their Noncommissioned Officer Evaluation Reports reflect a Soldier with endless potential. However, after the traumatic loss of a close friend, they could not escape the powerful effects of alternating depressive and manic cycles that characterize Bipolar Disorder. They manifested conduct was completely at odds with their typical exemplary performance, including an absence without leave period, three incidents of missed duty, and a false official statement. Due to this precipitous change in behavior, their chain of command took administrative action against them, culminating in their separation with a characterization of service of Under Other Than Honorable Conditions. It is this character of service that has prevented them from effectively treating the root of the problem, their Bipolar I Disorder.

(3) Their discharge is inequitable and improper. At the time of their discharge, they suffered from a mental health disorder that very clearly developed, and worsened, during their time in service. This mitigates their discharge. The Medical Evaluation Board (MEB) physician found the applicant no longer met retention standards due to Bipolar Disorder and recommended referral to a Physical Evaluation Board for disability processing. However, the General Court-Martial Convening Authority (GCMCA) found the applicant's Bipolar I Disorder was not a direct or substantial contributing factor in their misconduct, thus facilitating their administrative separation. The GCMCA's determination was both arbitrary and capricious, the determination was made without explanation, directly contradicted the medical evidence and expert medical opinion. Their Bipolar Disorder was diagnosed in service; liberal consideration of their application is required. They should receive a discharge upgrade in accordance with the Kurta Memorandum and the Wilkie Memorandum which contain clarifications and guidance for the Board when determining whether or not to grant relief on the basis of equity and mental health conditions.

b. Board Type and Decision: In a records review conducted on 02 August 2024, and by a 5-0 vote, the board determined the discharge is inequitable based on the applicant's Bipolar I Disorder mitigated the applicant's misconduct - multiple AWOL, multiple FTRs and making a false official statement. 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, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code of RE-4 will remain the same.

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

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Misconduct, (Serious Offense) / Army Regulation 635-200, Paragraph 14-12c / JKQ / RE-4 / General (Under Honorable Conditions)

b. Date of Discharge: 17 December 2015

c. Separation Facts:

(1) Date of Notification of Intent to Separate: Illegible

(2) Basis for Separation:

- on or about 27 October 2014, without authority, absent themselves from their place of duty at which they were required to be and did remain so absent until on or about 29 January 2015
- on or about 10 February 2015, with intent to deceive, made an official statement, which statement was false and was then known by them to be so false
- conduct with resulted in a letter of reprimand on 4 August 2015
- on or about 7 October 2014, without authority, failed to go at the time prescribed to their appointed place of duty
- on or about 9 October 2014, without authority, failed to go at the time prescribed to their appointed place of duty
- on or about 10 February 2015, without authority, failed to go at the time prescribed to their appointed place of duty
- on or about 11 February 2015, without authority, failed to go at the time prescribed to their appointed place of duty
- on or about 5 March 2015, without authority, failed to go at the time prescribed to their appointed place of duty

(3) Recommended Characterization: Under Other Than Honorable Conditions

(4) Legal Consultation Date: Illegible

(5) Administrative Separation Board: On 29 September 2015, the applicant was notified to appear before an administrative separation board and advised of their rights. On 24 November 2015, the separation authority approved the findings and recommendations of the administrative separation board.

(6) Separation Decision Date / Characterization: 24 November 2015 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 20 February 2013 / 6 years

b. Age at Enlistment / Education / GT Score: 22 / Home Diploma / 121

- c. Highest Grade Achieved / MOS / Total Service:** E-5 / 35P1O, Cryptologic Linguist / 6 year, 5 months, 12 days
- d. Prior Service / Characterizations:** None
- e. Overseas Service / Combat Service:** None
- f. Awards and Decorations:** JSAM, AAM-2, AGCM-2, NDSM, GWTSM, NCOPDR, ASR, MVSM
- g. Performance Ratings:** NA
- h. Disciplinary Action(s) / Evidentiary Record:**

(1) A DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ)), dated 10 July 2012, reflects the applicant received nonjudicial punishment, in that, as a married man, did, between on or about 1 February 2012 and on or about 30 April 2012, wrongfully had sexual intercourse with Sergeant C____ P____, a married woman not their spouse, in violation of Article 134 (Adultery), UCMJ. Their punishment consisted of reduction in rank/grade from sergeant/E-5 to specialist/E-4, forfeiture of \$500.00 pay for 2 months, and extra duty for 45 days. The applicant elected not to appeal.

(2) A DA Form 2627 (Record of Proceedings under Article 15, UCMJ), dated 26 May 2015, reflects –

(a) The applicant received nonjudicial punishment for –

- on or about 7 October 2014, without authority, failed to go at the time prescribed to their appointed place of duty, in violation of Article 86, UCMJ
- on or about 9 October 2014, without authority, failed to go at the time prescribed to their appointed place of duty and did remain so absent until 23 October 2014, in violation of Article 86, UCMJ
- on or about 27 October 2014, without authority, absent themselves from their place of duty and did remain so absent until on or about 29 January 2015, in violation of Article 86, UCMJ
- having knowledge of a lawful order, an order which it was their duty to obey, failed to obey on or about 30 January 2015, in violation of Article 92 (Failure to Obey Order or Regulation)
- on or about 10 February 2015, without authority, failed to go at the time prescribed to their appointed place of duty, in violation of Article 86, UCMJ
- on or about 10 February 2015, with intent to deceive, made an official statement, which statement was totally false, and was then known by them to be false, in violation of Article 107 (False Official Statement), UCMJ
- on or about 11 February 2015, without authority, failed to go at the time prescribed to their appointed place of duty, in violation of Article 86, UCMJ
- on or about 5 March 2015, without authority, failed to go at the time prescribed to their appointed place of duty, in violation of Article 86, UCMJ

(b) The applicant's punishment consisted of a reduction in rank/grade from sergeant/E-5 to specialist/E-4, forfeiture of \$1,225.00 pay for 2 months, and extra duty and restriction for 30 days. The applicant elected not to appeal.

(3) A DA Form 2166-8 (NCO Evaluation Report) covering the period 21 June 2014 through 27 May 2015, reflects in –

- Part IV (Army Values/Attributes/Skills/Actions- the applicant's rater marked "NO" to Loyalty, Duty, Selfless-Service, Honor, Integrity, and Personal Courage and commented –
 - "compromised integrity by submitting false reporting to superiors
 - poor example to subordinates
 - demonstrated a serious lack of loyalty and poor judgement without consideration of results"
- Part IVb (Competence) – the applicant's rater checked "Needs Improvement (Some)" and commented "capable of completing tasks when supervised; inefficient in their ability to perform their duty as a Sergeant" " and showed a lack of sound judgment during and after their transition to a different unit
- Part IVd (Leadership) – the applicant's rater checked "Needs Improvement (Much)" and commented "lacked ability to demonstrate to junior Soldiers how to act and perform as an NCO "
- Part IVe (Training) – the applicant's rater checked "Needs Improvement (Some)" and commented "failed to attend language training, which was required" and "did not impart knowledge with Soldiers due to not report to duty"
- Part IVf (Responsibility & Accountability) – the applicant's rater checked "Needs Improvement (Much)" and commented "failed to report to duty for 111 days after being assigned to the unit" and "failed to provide a good example to subordinate Soldiers reducing their credibility to mentor the good, bad, right, and wrong"
- Rater Overall Performance – the applicant's rater marked "Marginal"
- Part Vc (Senior Rater – Overall Performance) – the applicant's senior rater marked "5 – Poor"
- Part Vd (Senior Rater – Overall Potential) – the applicant's senior rater marked "5 – Poor"
- Part V (Senior Rater Overall Potential) – the applicant's senior rater commented "do not promote at this time," has potential in this [Military Occupational Specialty] MOS but lacks sound judgment," and "no longer possesses the capacity to continue service in the United States Army"

(4) A memorandum, Battalion Support Company, 3rd Battalion, 10th Special Forces Group (Airborne), subject: Separation under Army Regulation 635-200, Chapter 14-12c, Commission of a Serious Offense, undated, the applicant's company commander notified the applicant of their intent to separate them under the provisions of Army Regulation 635-200, Chapter 14-12c, Commission of a Serious Offense with a recommended characterization of service of general (under honorable conditions) for acts of misconduct as described above in paragraph 3c(2). The applicant acknowledged the basis for the separation and of the rights available to them.

(5) The applicant's memorandum, subject: Election of Rights Regarding Separation under Army Regulation 635-200, Chapter 14-12c, Commission of a Serious Offense, date is illegible, reflects the applicant completed their election of rights, signing they had been advised of their rights available to them and of the effect of any action taken by them in waiving their rights. They requested consideration of their case by an Administrative Separation Board, with an appearance before the Board. They requested consulting counsel and representation by military counsel. They understand that they may expect to encounter substantial prejudice in civilian life if a general (under honorable conditions) discharge is issued to them and they may be ineligible for many or all benefits as a veteran under both Federal and State laws.

(6) A memorandum, Battalion Support Company, 3rd Battalion, 10th Special Forces Group (Airborne), date illegible, reflects the applicant's company commander submitted a request to separate them prior to their expiration term of service, stating they do not consider it feasible or appropriate to accomplish other disposition as the applicant is unlikely to overcome their deficiencies and be a viable member of the unit. Their continued presence in the unit will degrade the unit's morale, readiness, and effectiveness. They arrived in this unit in October 2014 as a rehabilitative move, but their performance and actions since the move do not demonstrate potential for useful service under the conditions of full mobilization. The report of mental status evaluation or psychiatric report is attached [Note: the reports are not in evidence for review].

(7) A memorandum, Headquarters, 10th Special Forces Group (Airborne), subject: Separation under Army Regulation 635-200, Chapter 14-12c, Commission of a Serious Offense, dated 24 July 2015, reflects the applicant's group commander reviewed the separation packet and after careful consideration, recommended the applicant be referred to a standing administrative separation board and their service be characterized as Under Other Than Honorable Conditions.

(8) A memorandum, Advanced Skills Company, Group Support Battalion, 10th Special Forces Group (Airborne), subject: Notification to Appear Before Administrative Separation Board, dated 29 September 2015, notified the applicant that an Administrative Separation Bboard will meet on 27 October 2015, to hear evidence concerning their proposed separation.

(9) A Continuation Sheet of DA Form 1574 (Report of Proceedings by Investigating Officer) to [Applicant] reflects the findings and recommendation of the Administrative Separation Board. On 5 November 2015, the board carefully considered all the admitted evidence and found in a close session.

- the allegation that the applicant, did, on or about 27 October 2014, without authority, absent themselves from their place of duty, and did remain so absent until on or about 29 January 2015, is supported by a preponderance of the evidence
- the allegation that the applicant did, on or about 10 February 2015, with intent to deceive, made an official statement, which statement was totally false, and was then known to be so false, is supported by a preponderance of the evidence
- in view of such findings, the board recommends separation from the U.S. Army with an Under Other Than Honorable Conditions characterization of service

(10) A memorandum, Headquarters, 4th Infantry Division and Fort Carson, subject: Separation of [Applicant] under the Provisions of Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, dated 24 November 2015, the separation authority states –

(a) They have reviewed the chapter action pertaining to the applicant and direct that they be processed under administrative separation provisions.

(b) The Medical Evaluation Board findings indicate the applicant has Bipolar I Disorder. They do not find that the applicant's medical condition is a direct or substantial contributing cause of their misconduct, or that other circumstances warrant disability processing.

(c) The applicant's administrative separation is approved, and their service will be characterized as Under Other Than Honorable Conditions.

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(11) On 17 December 2015, the applicant was discharged accordingly, the DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant completed 6 years, 5 months, and 12 days of net active service this period. They completed their full first full term of service. The DD Form 214 shows in:

- item 4a (Grade, Rate or Rank) – Private
- item 4b (Pay Grade) – E-1
- item 12i (Effective Date of Pay Grade) – 28 November 2015
- item 18 (Remarks), in part –
 - Continuous Honorable Active Service: 20090311 - 20141026
 - MEMBER HAS COMPLETED FIRST FULL TERM OF SERVICE
- item 24 (Character of Service) – General (Under Honorable Conditions)
- item 26 (Separation Code) – JKQ
- item 27 (Reentry Code) - 4
- item 28 (Narrative Reason for Separation) – Misconduct, (Serious Offense)
- item 29 (Dates of Time Lost During This Period) – 20141007 - 20150201

i. **Lost Time / Mode of Return:** 7 October 2014 through 1 February 2015.

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

(1) **Applicant provided:**

- Behavioral Health Medical Record, reflecting a diagnosis of Bipolar I Disorder
- Integrated Disability Evaluation System Narrative Summary reflecting a diagnosis of Bipolar I Disorder with a date of onset of 15 August 2013 and did not exist prior to service

(2) **AMHRR Listed:** None

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Counsel's Brief in Support of Application, with exhibits –
 - Exhibit A – DD Form 214
 - Exhibit B – Applicant's Personal Statement
 - Exhibit C – Military Personnel Record
 - Exhibit D – Service Treatment Record
 - Exhibit E – Integrated Disability Evaluation System Narrative Summary

6. POST SERVICE ACCOMPLISHMENTS: None submitted with the application.

7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):

a. Title 10, U.S. Code, Section 1553, (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, Title 10 U.S. Code, Section 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 (DoD) 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; Title 10 U.S. Code; Section 1553 and DoD Directive 1332.41 and DoD Instruction 1332.28.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), dated 6 September 2011, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(1) 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.

(2) 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.

(3) A Under Other Than Honorable Conditions Discharge is an administrative separation from the Service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial.

(4) Chapter 14 (Separation for Misconduct) established policy and prescribed procedures for separating members for misconduct. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed. 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. Paragraph 14-12c (Commission of a Service Offense), stated 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.

(5) Chapter 15 (Secretarial Plenary Authority), currently in effect, provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memoranda. Secretarial separation authority is normally exercised on a case-by-case basis.

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 14-12c, 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 DoD Instruction 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:

(1) 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.

(2) 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.

(3) 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.

g. Army Regulation 635-40 (Disability Evaluation for Retention, Retirement, or Separation) establishes the Army Disability Evaluation System (DES) and sets forth policies, responsibilities, and procedures that apply in determining whether a Soldier is unfit because of physical disability to reasonably perform the duties of his or her office, grade, rank, or rating.

(1) Paragraph 4-1 (Scope of the DES) states the IDES features consists of a single set of disability medical examinations that may assist the DES in identifying conditions that may render the Soldier unfit and a single set of disability ratings provided by VA for use by both departments. The DES applies these ratings to the conditions it determines to be unfitting and compensable. The Soldier receives preliminary ratings for their VA compensation before the Soldier is separated or retired for disability.

(2) Paragraph 4-3 (Soldiers Absent Without Leave, Undergoing or Pending Adverse Actions or Involuntary Administrative Separation, or Prognosis of Imminent Death) provides Soldiers under processing for an administrative separation for misconduct remain eligible to be referred to the MEB. The Soldier's commander must notify the Soldier's physical evaluation board liaison officer in writing that administrative separation action has been initiated. The Soldier's complete MEB must be referred to the Soldier's General Court-Martial Convening Authority (GCMCA) to determine whether the Soldier will be referred to the Physical Evaluation Board. Approval and suspension of an administrative separation action is not authorized when the Soldier is pending both an administrative separation and disability evaluation for separation action. The GCMCA must decide which action to pursue. Soldiers continue to be eligible for these administrative separation actions up until the day of their separation or retirement for disability even though their Physical Evaluation Board findings have been previously completed and approved by U.S. Army Physical Disability Agency for the Secretary of the Army. In no case will a Soldier, being processed for an administrative separation for fraudulent enlistment or misconduct be discharged through the DES process without the approval of the GCMCA.

h. Manual for Courts-Martial, United States (2012 Edition) stated, military law consists of the statutes governing the military establishment and regulations issued thereunder, the constitutional powers of the President and regulations issued thereunder, and the inherent authority of military commanders. Military law includes jurisdiction exercised by courts-martial and the jurisdiction exercised by commanders with respect to nonjudicial punishment. The purpose of military law is to promote justice, to assist in maintaining good order and discipline in the Armed Forces. Appendix 12 (Maximum Punishment Chart) Manual for Courts-Martial shows the maximum punishments include punitive discharge for violating the following Article 86 (Absence Without Leave).

8. SUMMARY OF FACT(S):

a. The Army Discharge Review Board considers applications for upgrade as instructed by DoD Instruction 1332.28.

b. The available evidence reflects the applicant's two occurrences of absent with leave from 9 October 2014 through 23 October 2014 and 27 October 2014 through 29 January 2015; and was involuntarily discharge from the U.S. Army. The DD Form 214 provides the applicant was discharged with a character of service of Under Other Than Honorable Conditions for misconduct, (serious offense). They completed 6 years, 5 months, and 12 days of net active service this period and complete their first full term of service; however, they did not complete their 6-year reenlistment contractual obligation.

c. Chapter 14 establishes policy and prescribes procedures for separation members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. 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.

d. Published DoD guidance indicates that the guidance is not intended to interfere or impede on the Board's statutory independence. The Board will determine the relative weight of the action that led to the discharge and whether it supports relief or not. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

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: Bipolar I Disorder. [Note-diagnoses of Episodic Mood Disorders; Bipolar DO NOS: Bipolar DO, unspecified are subsumed under diagnosis of Bipolar I Disorder.].

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found that Bipolar I DO was diagnosed during military service. Also, VA service connection of 100% for Bipolar I DO establishes it began during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the applicant has a mitigating BH condition, Bipolar DO, type I. Record review indicates he reported as far back as 2013 having problems with impulse control and irritability, two characteristic symptoms of Bipolar DO. Over time, his condition worsened to the point he was unable to function in his MOS due to his manic and depressive mood states. As there is an association between Bipolar, I Disorder, avoidant behaviors, and impaired judgment, there is a nexus between his diagnosis of Bipolar I DO, his period of AWOL, his FTRs and his making a false official statement.

(4) Does the condition or experience outweigh the discharge? **Yes.** The board concurred with the opinion of the Board's Medical Advisor, a voting member. As a result, the ADRB applied liberal consideration and found that the applicant's Bipolar I Disorder outweighed the basis of separation – multiple AWOL, multiple FTRs and making a false official statement.

b. Response to Contention(s):

(1) The applicant contends they are requesting a discharge upgrade as a mental health condition, which existed at the time of their discharge, directly impacted the circumstances leading to an Under Other Than Honorable Conditions characterization. The board considered this contention during proceedings and voted to grant an upgrade to honorable and change the narrative reason for separation code to JKN because the applicant's Bipolar I Disorder outweigh the applicant's basis of separation - multiple AWOL, multiple FTRs and making a false official statement. However, the board decided that the reentry code will not change due to the mitigating condition is also service limiting.

(2) The applicant contends the Medical Evaluation Board physician found they no longer met retention standards due to Bipolar Disorder and recommended referral to a Physical Evaluation Board for disability processing. However, the GCMCA found their Bipolar I Disorder was not a direct or substantial contributing factor in their misconduct, thus facilitating their administrative separation. The board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the information outlined above in paragraphs 9a (3-4) and 9b (1).

(3) The applicant contends the GCMCA's determination was both arbitrary and capricious, the determination was made without explanation, directly contradicted the medical evidence and expert medical opinion. Their Bipolar Disorder was diagnosed in service; liberal consideration of their application is required. The board liberally considered this contention and a review of the applicant available AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command. Nevertheless, the board voted that relief was warranted based on other circumstances as outlined above in paragraphs 9a (3-4) and 9b (1).

(4) The applicant contends they should receive a discharge upgrade in accordance with the Kurta Memorandum and the Wilkie Memorandum which contain clarifications and guidance for the board when determining whether or not to grant relief on the basis of equity and mental health conditions. The board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the information outlined above in paragraphs 9a (3-4) and 9b (1).

c. The Board determined the discharge is inequitable based on the applicant's Bipolar I Disorder mitigated the applicant's misconduct - multiple AWOL, multiple FTRs and making a false official statement. 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, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code of RE-4 will remain the same.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to honorable because the applicant's Bipolar I Disorder mitigated the applicant's basis of separation - multiple AWOL, multiple FTRs and making a false official statement. Thus, the prior characterization is no longer appropriate.

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(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.

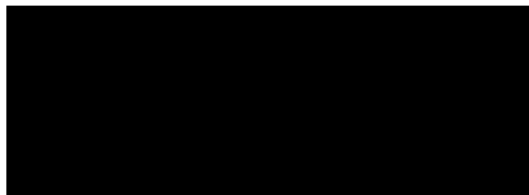
(3) The reentry code will not change, as mitigating condition is also service limiting.

10. BOARD ACTION DIRECTED:

- e. Issue a New DD-214 / Separation Order: Yes
- f. Change Characterization to: Honorable
- g. Change Reason / SPD code to: Misconduct (Minor Infractions)/JKN
- h. Change RE Code to: No Change
- i. Change Authority to: AR 635-200, paragraph 14-12a

Authenticating Official:

4/3/2025

**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
UOTHHC – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs