

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

- a. **Application Date:** 8 December 2020
- b. **Date Received:** 21 December 2020
- 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 under honorable conditions (general). The applicant requests an upgrade to honorable and a narrative reason change.

b. The applicant states, in effect separation with a general under honorable conditions discharge was given instead of continuation with the already initiated Medical Review Board due to an offense that was a direct result of their decline mental and physical health. They have PTSD, a documented suicide attempt, insomnia, sleep apnea and had multiple admissions into a mental hospital prior to their offense occurring. Their case was moved to the veteran's court based on their PTSD and mental health issues and as of 17 April 2015 the court by judicial order has fully dismissed their cases.

c. **Board Type and Decision:** In a records review conducted on 6 March 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, the circumstances surrounding the discharge (Personality Change due to Arachnoid Cyst). Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to honorable and changed the separation authority to AR 635-200, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code of JFF. The Board determined the reentry code is proper and equitable and voted not to change it.

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

**3. DISCHARGE DETAILS:**

a. **Reason / Authority / Codes / Characterization:** Misconduct (Serious Offense) / AR 635-200 / JKQ / RE-3 / Under Honorable Conditions (General)

b. **Date of Discharge:** 9 November 2012

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** NIF

(2) **Basis for Separation:** NIF

(3) **Recommended Characterization:** NIF

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

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

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

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 14 June 2007 / 6 years

**b. Age at Enlistment / Education / GT Score:** 18 / NIF / NIF

**c. Highest Grade Achieved / MOS / Total Service:** E-4 (Specialist) / 19D10 Cavalry Scout / 5 years, 4 months, 26 days

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

**e. Overseas Service / Combat Service:** Germany / Iraq; 30 November 2008 – 16 September 2009

**f. Awards and Decorations:** ICM-W2CS, ARCOM, AAM, AGCM, NDSM, GWTSM, ASR, OSR-2

**g. Performance Ratings:** N/A

**h. Disciplinary Action(s) / Evidentiary Record:**

**(1)** An Enlistment/ Reenlistment Document provides the applicant enlisted in the Army Reserve at the rank of private (E-1) with an active duty obligation of 6 years on 8 August 2006.

**(2)** A Department of The Army, The Army Achievement Medal provides the applicant received this medal for their meritorious service from 14 July 2008 to 5 September 2008 while stationed in Germany.

**(3)** A Department of The Army, The Army Good Conduct Medal provides the applicant received this medal for exemplary behavior, efficiency, and fidelity in the active federal military service from 14 June 2007 to 13 June 2010 while stationed at Fort Bliss, Texas.

**(4)** A Certificate of Release or Discharge from Active-Duty document (DD Form 214) provides on 9 November 2012 the applicant was discharged from the army.

- Station where separated: Fort Bliss, Texas
- Authority: 635-200, Chapter 14-12c
- Narrative Reason: Misconduct (Serious Offense)
- Service Characterization: Under Honorable Conditions (general)
- Remarks: Member has not completed first term of service; service in Iraq 30 October 2008 – 16 September 2009
- Net Service: 5 years, 4 months, and 26 days
- Signature: Electronically signed by the applicant

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

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

(1) **Applicant provided:** the applicant states they have PTSD and other mental health issues; however, they did not provide any documentation to support their diagnosis, the Army Review Boards Agency requested medical documentation on 25 March 2021; none were submitted.

(2) **AMHRR Listed: None**

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293 (Discharge Review) application, a copy of the supplemental guidance to Military Boards for correction of military/naval records considering discharge upgrade requests by veteran claiming post-traumatic stress disorder memorandum with 2 pages of guidance dated 3 September 2014, a copy of the consideration of discharge upgrade requests pursuant to supplemental guidance to military boards for correction of military/naval records by veterans claiming PTSD or TBI memorandum dated 24 February 2016 and 2 additional enclosures in support of their application.

- A Register Of Actions document provides on 28 July 2011 a complaint was filed against the applicant for indecent exposure; they were arrested. On 17 January 2014 the applicant pled guilty, and punishment consisted of probation for 12 months, 80 hours of community service, probation fees of \$25 monthly and no offensive contact with the victim.
- A Criminal Case Records Search Results document provides the applicant was charged with two Adult misdemeanor offenses (indecent exposure) the charges were dismissed on 17 April 2015.

**6. POST SERVICE ACCOMPLISHMENTS:** None provided in support of their 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), dated 25 September 2019, 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 provides the authorized types of characterization of service or description of separation.

(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) An Under other-than-honorable-conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain

circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

(4) Except as otherwise indicated in this regulation, commanders must make maximum use of counseling and rehabilitation before determining that a Soldier has no potential for further useful service and, therefore, should be separated. In this regard, commanders will ensure that adequate counseling and rehabilitative measures are taken before initiating separation proceedings for the following reasons:

- Involuntary separation due to parenthood
- Personality disorder
- Other designated physical or mental conditions
- Entry-level performance and conduct
- Unsatisfactory performance
- Minor disciplinary infractions or a pattern of misconduct
- Failure to meet body fat standards

(5) 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. 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. A soldier subject to this discharge under this regulation will be considered and processed for discharge even though he/she has filed an appeal or has stated his/her intention to do so. Paragraph 14-12c, states 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. Chapter 15 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.

f. 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).

g. 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.

**a.** The applicant requests an upgrade to honorable. The applicant's DD-214 provides that the applicant received a General (under honorable conditions) characterization of service, rather than an under other than honorable conditions (UOTCH) discharge which is normally appropriate for misconduct (serious offense).

**b.** Based on the available evidence the applicant enlisted in the army at the age of 18, during their enlistment they received the Army Achievement Medal, the Army Good Conduct Medal and advanced to the rank of Specialist. They deployed to Iraq for 9 months and at some point, they were processed for administrative separation due to misconduct (serious offense).

**c.** A Review of the record provides administrative irregularity occurred in the proper retention of official records, specifically, the AMHRR is void of the entire separation packet and evidence to support if the applicant received the required medical and mental health separation examinations. Due to the lack of evidence, we are unable to provide all the specific facts and circumstances surrounding the applicant administrative separation. Notwithstanding the lack of evidence, the record provides the applicant signed a properly constituted DD Form 214, that shows they were discharged under the provisions of Army Regulation 635-200, Chapter 14 Misconduct (serious offense) with an under honorable conditions (general) characterization of service on 9 November 2012.

**d.** Chapter 14 establishes policy and prescribes procedures for members being separated 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.

**e.** Published Department of Defense 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: Adjustment DO; Major Depressive DO (MDD); PTSD; Concussion; Cognitive DO NOS; Personality change due to Arachnoid Cyst, disinhibited type. VA-Conversion Disorder with Sensory Symptom or Deficit (50% SC).

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found Adjustment DO; Major Depressive DO (MDD); PTSD; Concussion; Cognitive DO NOS; Personality change due to Arachnoid Cyst, disinhibited type occurred during active service. VA service connection for Conversion DO establishes it began and/or occurred during active 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, Personality Change due to Arachnoid Cyst (310.1), disinhibited type. Brain MRI and head CT scan indicate that the applicant has a 2.5x3x3 cm arachnoid cyst near the pituitary gland which was causing a mild mass effect upon right hemisphere of cerebellum. Neuropsychological clinical examination and testing established that the applicant suffered from Personality Change due to Arachnoid Cyst (310.1), disinhibited type, as a result of the location and size of this cyst. Common manifestations of this type of condition include aggressive outbursts, paranoia, apathy, impulsivity, and disinhibition which, in the applicant's case, manifested as indecent exposure. The examiner determined that the applicant's symptoms rendered him unfit for active duty. No immediate re-evaluation was needed because test findings were valid and interpretable. The applicant's remaining BH conditions of PTSD, Anxiety DO NOS, Major Depressive DO, and Cognitive DO do not mitigate the offense of indecent exposure as none of these conditions affect the ability to distinguish between right and wrong and act in accordance with the right.

(4) Does the condition or experience outweigh the discharge? **Yes.** Based on liberally considering all the evidence before the Board, the ADRB determined that the condition or experience outweighed the basis of separation.

b. Prior Decisions Cited: None

c. Response to Contention(s):

(1) The applicant contends they separated instead of going through an initiated medical review board.

The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's BH diagnoses fully outweighing the applicant's basis for separation.

(2) The applicant contends their offense was a direct result of their decline mental and physical health.

The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's BH diagnoses fully outweighing the applicant's basis for separation.

d. The Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, the circumstances surrounding the discharge (Personality Change due to Arachnoid Cyst). Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to honorable and changed the separation authority to AR 635-200, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code of JFF. The Board determined the reentry code is proper and equitable and voted not to change it.

e. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable based on the following reasons. VA medical records indicate that the applicant is 100% service connected, 50% for Conversion DO, effective 10 Nov 2012. Based on the available information, it is the opinion of the Agency's BH advisor that the applicant has a mitigating BH condition, Personality Change due to Arachnoid Cyst (310.1), disinhibited type. Brain MRI and head CT scan indicate that the applicant has a 2.5x3x3 cm arachnoid cyst near the pituitary gland which was causing a mild mass effect upon right hemisphere of cerebellum. Neuropsychological clinical examination and testing established that the applicant suffered from Personality Change due to Arachnoid Cyst (310.1), disinhibited type, as a result of the location and size of this cyst. Common manifestations of this type of condition include aggressive outbursts, paranoia, apathy, impulsivity, and disinhibition which, in the applicant's case, manifested as indecent exposure. The examiner determined that the applicant's symptoms rendered him unfit for active duty. No immediate re-evaluation was needed because test findings were valid and interpretable. The applicant's remaining BH conditions of PTSD, Anxiety DO NOS, Major Depressive DO, and Cognitive DO does not mitigate the offense of indecent exposure as none of these conditions affect the ability to distinguish between right and wrong and act in accordance with the right. Based on the BH diagnosis of Personality Change due to Arachnoid Cyst mitigation of the indecent exposure, The Board's careful consideration of the applicant's request, supporting documents and medical review, the Board concurred the current discharge is inequitable and warrants an upgrade.

(2) The Board voted to change the applicant's narrative reason for discharge to Secretarial Authority, with a corresponding separation code of JFF.



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

**AR20210006018**

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

**10. BOARD ACTION DIRECTED:**

- a. **Issue a New DD-214:** Yes
- b. **Change Characterization to:** Honorable
- c. **Change Reason / SPD Code to:** Secretarial Authority / JFF
- d. **Change RE Code to:** No change
- e. **Change Authority to:** AR 635-200

**Authenticating Official:**

3/25/2024



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