

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

- a. **Application Date:** 20 August 2020
- b. **Date Received:** 27 October 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 General (Under Honorable Conditions). The applicant requests an upgrade to Honorable.

b. The applicant seeks relief contending, they believe their discharge seemed very inequitable and an upgrade will allow for better employment opportunities. They were a great scout, who served as a truck gunner, with great pride, and had one incident and was not given the chance to correct themselves. The applicant had a drinking problem because their senior noncommissioned officers approved of the habit and the applicant had no help after their discharge was complete and they are asking for help now. The applicant has already lost their career and from the viewpoint of their future, the upgrade will help with jobs and will allow the applicant a chance to go to school, with a great background.

c. **Board Type and Decision:** In a records review conducted on 3 May 2024, and by a 5-0 vote, the Board, based on the applicant's length of service, determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable and 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 RE code was proper and equitable and voted not to change it.

**3. DISCHARGE DETAILS:**

a. **Reason / Authority / Codes / Characterization:** Alcohol Rehabilitation Failure / AR 635-200, Chapter 9 / JPD / RE-4 / General (Under Honorable Conditions)

b. **Date of Discharge:** 28 March 2013

**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

**4. SERVICE DETAILS:**

a. **Date / Period of Enlistment:** 23 August 2011 / 3 years, 18 weeks

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

c. **Highest Grade Achieved / MOS / Total Service:** E-3 / 19D10 Cavalry Scout / 1 year, 7 months, 6 days

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

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

f. **Awards and Decorations:** NDSM, GWOTSM, ASR

g. **Performance Ratings:** NA

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

(1) On 23 August 2011, with parental consent, the applicant enlisted in the Regular Army for 3 years and 18 weeks as a PVT. Although not in the record, the applicant promoted to PFC (1 July 2012).

(2) Notwithstanding the missing separation package, on 21 March 2013, their separation orders were issued. A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged accordingly on 28 March 2013, with 2 years, 1 month, and 13 days of service, noting the following:

- Authority: AR 635-200, Chapter 9
- Narrative: Alcohol Rehabilitation Failure
- SPD Code: JPD
- Reentry Code: RE-4
- Service Characterization: General (Under Honorable Conditions)
- Total NET Active Service This Period: 1 year, 7 months, and 6 days
- Remarks: They have not completed their first full term of service.
- Lost Time: None
- Signature: Not available to Sign

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

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293 (Application for the Review of Discharge); DD Form 214 (Certificate of Release of Discharge from Active Duty)

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with this 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.

(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) Chapter 9 provides the authority and outlines the procedures for discharging Soldiers for alcohol or other drug abuse rehabilitation failure. Discharge is based upon alcohol or other drug abuse such as illegal, wrongful, or improper use of any controlled substance, alcohol, or other drugs when the soldier is enrolled in Alcohol and Drug Abuse Prevention and Control Program (ADAPCP) or when the commander determines that further rehabilitation efforts are not practical, rendering the soldier a rehabilitation failure. This determination will be made in consultation with the rehabilitation team. When the commander determines that a soldier who has never been enrolled in ADAPCP lacks the potential for further useful service, the soldier will be screened per AR 600-85. If found non-dependent, the soldier will not be rehabilitated but will be considered for separation under other appropriate provisions of this regulation. Separations for alcohol abuse rehabilitation failure will be reported separately from separations for drug abuse rehabilitation failure. If separation is based on both, the primary basis will be used for reporting purposes.

(5) A Soldier who is enrolled in the Alcohol and Drug Abuse Prevention and Control Program (ADADPCP) for alcohol/drug abuse may be separated because of their inability or refusal to participate in, cooperate in, or successfully complete such a program in one of the following circumstances:

- There is a lack of potential for continued Army service and rehabilitation efforts are no longer practical
- Long term rehabilitation is necessary, and the Soldier is transferred to a civilian medical facility for rehabilitation

**e.** Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JPD" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 9, Alcohol Rehabilitation Failure.

**f.** Army Regulation 601-210, Regular Army, and Reserve Components Enlistment Program, governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

**(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 600-85 (Army Substance Abuse Program (ASAP)), provided a comprehensive alcohol and drug abuse prevention and control policies, procedures, and responsibilities for Soldiers for ASAP services. The ASAP is a command program that emphasizes readiness and personal responsibility. The ultimate decision regarding separation or retention of abusers is the responsibility of the Soldier's chain of command. Abuse of alcohol or the use of illicit drugs by military personnel is inconsistent with Army values and the standards of performance, discipline, and readiness necessary to accomplish the Army's mission.

**(1)** Unit commanders must intervene early and refer all Soldiers suspected or identified as alcohol and/or drug abusers to the ASAP. The unit commander should recommend enrollment based on the Soldier's potential for continued military service in terms of professional skills, behavior, and potential for advancement.

**(2)** ASAP participation is mandatory for all Soldiers who are command referred. Failure to attend a mandatory counseling session may constitute a violation of Article 86 (Absence Without Leave) of the UCMJ.

(3) Alcohol and/or other drug abusers, and in some cases dependent alcohol users, may be enrolled in the ASAP when such enrollment is clinically recommended. Soldiers who fail to participate adequately in, or to respond successfully to, rehabilitation will be processed for administrative separation and not be provided another opportunity for rehabilitation except under the most extraordinary circumstances, as determined by the Clinical Director in consultation with the unit commander.

(4) All Soldiers who are identified as drug abusers, without exception, will be referred to the ASAP counseling center for screening; be considered for disciplinary action under the UCMJ, as appropriate; and be processed for administrative separation in accordance with Army Regulation 635-200.

**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. A review of the records provides there was administrative irregularity in the proper retention of the official military records, specifically, the separation package and Army Substance Abuse Program (ASAP) Rehabilitation Failure notification to the commander IAW AR 600-85.

b. The available evidence provides with parental consent, the applicant enlisted in the Regular Army as a PVT, promoted up to PFC, and notwithstanding the lack of evidence, they were issued separation orders and a DD Form 214, which shows the applicant was not available to sign, and was separated under the provisions of AR635-200, Chapter 9, Rehabilitation Failure, with a General (Under Honorable Conditions) characterization of service. The record is void of a separation mental status and/or medical examination. They have served 1 year, 7 months, and 6 days of their 3 year, 18 week contractual obligation.

c. Chapter 9 establishes policy and prescribes procedures for members being separated for alcohol or other drug abuse rehabilitation failure. The service of Soldiers discharged under this section will be characterized as honorable or under honorable conditions unless the Soldier is in entry-level status and an uncharacterized description of service is required. The separation authority will approve separation in cases processed without an administrative board if the documentation in the file indicates required rehabilitative efforts have been made, further rehabilitative efforts are not practical, rendering the soldier a rehabilitation failure, and the soldier's potential for fully effective service is substantially reduced by alcohol/drug abuse.

d. 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 Disorder with depressed mood.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the diagnosis of Adjustment Disorder with depressed mood was made during active military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that there are no mitigating Behavioral Health conditions. While the applicant has been diagnosed with Adjustment Disorder with depressed mood, this condition developed several months after the applicant failed alcohol rehabilitation and played no role in the applicant's chapter 9 separation. The cause of the Adjustment Disorder was infidelity between the applicant's wife and brother.

(4) Does the condition or experience outweigh the discharge? **N/A**

**b.** Response to Contention(s): The applicant seeks relief contending, they believe their discharge seemed very inequitable and an upgrade will allow for better employment opportunities. They were a great scout, who served as a truck gunner, with great pride, and had one incident and was not given the chance to correct themselves. The applicant had a drinking problem because their senior noncommissioned officers approved of the habit and the applicant had no help after their discharge was complete and they are asking for help now. The applicant has already lost their career and from the viewpoint of their future, the upgrade will help with jobs and will allow the applicant a chance to go to school, with a great background. 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 length of service.

**c.** The Board, based on the applicant's length of service, determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable and 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 RE code was proper and equitable and voted not to change it.

**d.** Rationale for Decision:

(1) The Board voted to grant relief by upgrading the applicant's characterization of service to Honorable. The Board determined that the discharge was to serve for the applicant's one time DUI charge and concurred that the discharge has served its purpose. Thus, making the current reason for discharge improper.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

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

**10. BOARD ACTION DIRECTED:**

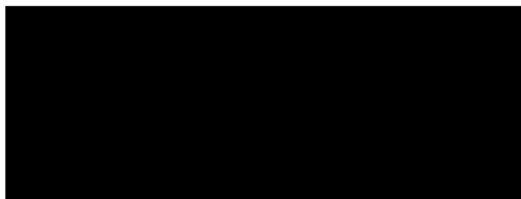
**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**

**AR20210006392**

- a. Issue a New DD-214: Yes**
- b. Change Characterization to: Honorable**
- c. Change Reason / SPD Code to: Misconduct (Minor Infractions)/JKN**
- d. Change RE Code to: No Change**
- e. Change Authority to: AR 635-200**

**Authenticating Official:**

7/31/2024



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