

**1. Applicant's Name:** [REDACTED]**a. Application Date:** 9 February 2021**b. Date Received:** 11 February 2021**c. Counsel:** None**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

**a. Applicant's Requests and Issues:** The current characterization of service for the period under review is General (Under Honorable Conditions). The applicant requests an upgrade to Honorable and their narrative reason changed.

**b.** The applicant seeks relief contending, an undiagnosed condition of Post Traumatic Stress Disorder (PTSD), as they were diagnosed by Veterans Affairs (VA) with 70% service-connected PTSD, on 8 October 2016.

**c.** A review of their previous Army Discharge Review Board (ADRB) case (AR20110016917), had a self-authored statement providing the applicant was discharged for an incident that they received an Article 15 for. They decided to take it to court-martial and after a couple of months, the case was dropped and instead, the applicant was chaptered out, even all of the documents proving they did nothing wrong. They were kicked out for their past history as a PVT and the applicant felt they were not afforded the opportunity to plead their case. Their military records shows their having been in treatment for Alcoholism. The Article 15 packet indicated that they did not want to pay the cab driver because the applicant fell asleep in the cab and was overcharged. They had anger issues after coming back from Iraq; however, the dispute was between them and the cab driver that was taken way out of context by the chain of command. They should not have been chaptered out for this and they are at least deserving of an Honorable discharge.

**d. Board Type and Decision:** In a records review conducted on 19 July 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder and Traumatic Brain Injury outweighed the applicant's alcohol-related offenses. 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. The Board determined the reentry code is proper and equitable and voted not to change it.

**3. DISCHARGE DETAILS:**

**a. Reason / Authority / Codes / Characterization:** Misconduct (Serious Offense) / AR 635-200, Chapter 14-12C / JKQ / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 14 October 2010

**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:** NA

**(6) Separation Decision Date / Characterization:** NIF

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 1 November 2007 / 5 years (1st Reenlistment)

**b. Age at Enlistment / Education / GT Score:** 20 / Some College / 100

**c. Highest Grade Achieved / MOS / Total Service:** E-5 / 12N20 Horizontal Construction / 5 years, 1 month, 1 day

**d. Prior Service / Characterizations:** RA (14 September 2005 – 31 October 2007) / HON

**e. Overseas Service / Combat Service:** SWA / Iraq (13 August 2007 – 17 May 2008)

**f. Awards and Decorations:** ARCOM, AAM, AGCM, NDSM, NDSM, GWOTSM, ICM-CS, ASR, OSR

**g. Performance Ratings:** SGT (1 July 2009 – 30 April 2010) / Marginal

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

**(1)** On 1 November 2007, the applicant completed their first reenlistment in the Regular Army for 5 years as a SPC, with 2 years, 2 months, and 1 day of prior service.

**(2)** The Enlisted Record Brief provides the applicant deployed to Iraq for nine months (13 August 2007 – 17 May 2008), promoted to SGT (1 July 2008), and was awarded an Army Commendation Medal and their Army Good Conduct Medal. On 3 January and 14 July 2009, the applicant was flagged, Suspend Favorable Personnel Actions (FLAG), for adverse action (AA) and field-initiated involuntary separation (BA).

**(3)** A review of their previously boarded case (AR20110016917), provides the applicant was charged for having been indebted to Signature Cab Holdings Inc., in the sum of \$92.90 for taxicab services, as the amount became due and payable on or about 1 May 2010, near Schofield Barracks, HI, in which they dishonorably failed to pay said debt, violating Article 134, UCMJ. The applicant elected to demand trial by court-martial; however, there is no indication of the outcome, as the documents are not in their Official Military Personnel File (OMPF).

**(a)** The self-authored statement from their Article 15 matters, provides the applicant spent their entire career in Hawaii and did get into some trouble for underage drinking. They served in Iraq and though they did not get into any direct combat, it was tough but something they are proud to have been apart of. The applicant was promoted upon their return and had trouble with alcohol, which was affecting their work. The applicant enrolled themselves in the Army Substance Abuse Program (ASAP) and for some reason the new 1SG, did not like the fact that the applicant had an alcohol problem. It became so bad, that the applicant talked to their CSGM and the battalion commander, which did not help as their 1SG was making work unbearable. The applicant filed a Congressional Complaint with Congresswoman (AZ) and after

the investigation, 1SG was relieved from duty.

(b) The applicant was forced to stay in the same unit and battalion even though they asked to be moved for the fear of reprisal. The unit held them past their PCS date and told the applicant not to worry, as no one was going to treat them any different after this, even though the applicant felt uncomfortable. The applicant received threats of chapter and of bodily harm from their old 1SG and the applicant kept saying they wanted to change units. On 1 May 2010, the applicant went to a going away party of a person they served downrange with, and on the way back, fell asleep in the cab. When they woke up, their cab fare was \$92.90. The applicant refused to pay as they felt they were being ripped off and the cab driver called the Military Police (MP) and was advised to go to the station, as they were unable to send a car. The applicant and the cab driver argued in the cab and they were dropped off at their house.

(c) The MPs came to the applicant's house about an hour later when the applicant was asleep. Their platoon sergeant paid the cab, and also came to their house to get the applicant. The applicant told the platoon sergeant what happened and paid them back because the applicant had more than that amount in their pocket. They were given an Article 15 and tried to plead their case, by providing a letter from the owner of the cab company indicating their account was paid. The command did not care and the applicant was told by CSGM that they did not care what anyone said, they were going to take the applicant's rank.

(d) The applicant decided to go to trial by court-martial and after about two months, the command decided not to go through with it and started a chapter instead. The applicant told the command this was unfair because the reason they took the route of going to court-martial was to prove their innocence; however, they were not given a fair shot to become the Soldier they could have been. On 5 October 2010, the applicant was told they had nine days left in the military. The applicant submitted a complaint with the Inspector General (IG) office for whistle blower reprisal but not in time to save their military career. The applicant states they were chaptered out for underage drinking and the incidents they received while they were a PVT, when they were young (19 years old).

(e) As a result of their discharge, they cannot find a decent job and in financial ruin, forced to live with their mother because they are unable to be approved for a place of their own. The applicant owes the federal government about \$2,000 for not fulfilling their contract and they felt lost and unsure of what to do next, like they were pinned up against a corner. As of now, they have started their bankruptcy proceedings and have started school at Northern Virginia Community College, currently in their third semester [at the time]. They would like to get their discharge upgrade in order to receive 100% of their G.I. Bill, and not the 80% they receive now, as it is hard for them to pay the tuition costs. The applicant plans to major in Information Technology, get their finances in order, and start over with a good education.

(4) Notwithstanding the missing separation package, on 29 September 2010, their separation orders were issued. A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was unable to sign and was discharged accordingly on 14 October 2010, with 5 years, 1 month, and 14 days of total service; their first full term of service has been completed.

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

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

**(1) Applicant provided:** A partial VA Rating Decision, effective 8 October 2016, provides the applicant has a service-connected disability, with a 70% rating, for PTSD (previously rated as Dysthymia Disorder with Alcohol Abuse and Insomnia).

**(2) AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 149 (Application for the Correction of Military Record); Partial VA Rating Decision; **From Previous Case:** Enlisted Record Brief, Charge Sheet, Cab Company Letter, Self-Authored Statement

**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 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 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 14-12c, 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:

(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. Title 38, U.S. Code, Sections 1110 and 1131, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered, medically unfitting for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by the agency.

**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 and their narrative reason changed. A review of the available records provides there were administrative irregularity in the proper retention of the official military records, specifically, a charge sheet and/or any investigation report(s), the separation package, and separation medical/mental examinations. Based on this, the specific facts and circumstances surrounding their separation are unknown.

(1) The available evidence provides the applicant reenlisted in the Regular Army as a SPC, with 2 years, 2 months, and 1 day of prior service. They deployed to Iraq for nine months, promoted to SGT, and served for 1 year, 2 months, and 2 months prior to their misconduct. Seven months post redeployment, they were flagged for adverse action and involuntary separation.

(2) They served for 2 years, 11 months, and 14 days of their 5 year contractual obligation.

b. 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.

c. 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: PTSD (70%SC).

(2) Did the condition exist or experience occur during military service? The Board's Medical Advisor found VA service connection establishes applicant's diagnosis of PTSD 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's behavioral health condition mitigates the discharge. The diagnoses of PTSD/mild TBI mitigate those alcohol-related incidents that occurred after he was deployment (Deployed from Aug 2007-May 2008) given the association between PTSD/mTBI and use of alcohol to self-medicate emotional symptoms.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opinion, the Board determined that the applicant's Post Traumatic Stress Disorder and Traumatic Brain Injury outweighed the applicant's alcohol-related offenses.

b. Response to Contention(s):

(1) The applicant seeks relief contending, an undiagnosed condition of Post Traumatic Stress Disorder (PTSD), as they were diagnosed by Veterans Affairs (VA) with 70% service-connected PTSD, on 8 October 2016. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder and Traumatic Brain Injury outweighed the applicant's alcohol-related offenses.

(2) The applicant contends, they were discharged for an incident that they received an Article 15 for. They decided to take it to court-martial and after a couple of months, the case was dropped and instead, the applicant was chaptered out, even all of the documents proving they did nothing wrong. The Board considered this contention during proceedings but ultimately did not address it after determining that the applicant's misconduct was medically mitigated.

c. The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder and Traumatic Brain Injury outweighing the applicant's alcohol-related offenses. 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. The Board determined the reentry code is proper and equitable and voted not to change it.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Post Traumatic Stress Disorder and Traumatic Brain Injury outweighed the applicant's alcohol-related offenses. Thus, the prior characterization is no longer appropriate.

(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.

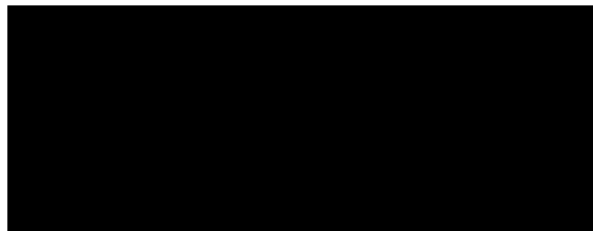
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**10. BOARD ACTION DIRECTED:**

- 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:**

7/2/2025



AWOL – Absent  
Without Leave

AMHRR – Army  
Military Human  
Resource Record

BCD – Bad  
Conduct  
Discharge

BH – Behavioral  
Health



**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE****AR20210006690**

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