

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 13 October 2020
- b. **Date Received:** 20 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 under other than honorable conditions. The applicant requests a DD Form 214 with honorable service from November 2001 to January 2004.

b. The applicant seeks relief contending, in effect, that they served honorably during their first period of service and received an other than honorable discharge for their second period of service. The applicant references deploying to Afghanistan after being assigned to Fort Campbell, KY in April 2002. The applicant deployed to Kuwait in February 2003 and in less than 30 days was sent to Iraq and redeployed in February 2004. Alcohol and cocaine were part of the applicant's daily routine, but was still able to function. Mental health checks at the time were a joke. After 3 years in the same battalion, the applicant was reassigned to another battalion. Being self-aware at this point with alcohol and drug usage. The applicant knew they had to make a change, so they admitted themselves in the Alcohol Drug Abuse Prevention and Control (ADAPC) program (currently The Army Substance Abuse Program). After the applicant's lieutenant got wind of this, the lieutenant decided that "having a talk" would better suit the applicant. Being a "good soldier," the applicant let the lieutenant talk them right out of the program and it was downhill from there. The applicant decided to go absent without leave (AWOL) which lasted about 7 days and upon return the applicant failed a urinalysis. The applicant was told in order to be admitted to the ADAPC program they had to be sober for 24 hours. After being left alone in the barracks the applicant went AWOL for the second time for about 500 days. The applicant has suffered with high anxiety and depression, which may be undiagnosed PTSD, and multiple physical ailments due to time in service. The applicant has come to terms that these are things that they will always have to deal with on their own. The applicant further details the contentions in a 10 page allied self-authored statement provided with the application.

(1) A Readjustment Counselor notes on 25 April 2022, the applicant was seeking individual therapy for help dealing with symptoms of post-traumatic stress from service in Iraq and Afghanistan. The applicant endorsed severe distress dealing with anxiety, inability to stop checking things, social withdrawal (will stay close to his house at times), emotional detachment (he has for a long time, he didn't have any emotion, no empathy), and sleep disturbance. The applicant also endorsed moderate distress with depression, anger/aggression, difficulties managing intense emotions, intrusive memories, and nightmares. At this point in the counseling appeared to be a low acute and chronic risk for harm to self or others. PTSD, chronic.

(2) RCS Client Information Record, dated 16 May 2022, states the primary reason for counseling was to seek individual therapy for help dealing with symptoms of post-traumatic stress from service in Iraq and how it was the catalyst for destructive behaviors post-deployment. The applicant was taking medications for anxiety.

c. **Board Type and Decision:** In a telephonic personal appearance conducted on 5 February 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's AWOL and illegal

substance abuse 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.

Please see Section 10 of this document for more detail regarding the Board's decision.

(Board member names available upon request)

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: In Lieu of Trial by Court-Martial / AR 635-200, Chapter 10 / KFS / RE-4 / Under Other Than Honorable Conditions

b. Date of Discharge: 12 December 2007

c. Separation Facts:

(1) Date and Charges Preferred (DD Form 458, Charge Sheet): On 1 February 2005, the applicant was charged with violating Article 86, Uniform Code of Military Justice (UCMJ), for being AWOL from 1 February 2005 and remained absent until on or about an unknown date.

(2) Legal Consultation Date: 19 March 2007

(3) Basis for Separation: Pursuant to the applicant's request for discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial.

(4) Recommended Characterization: Under Other Than Honorable Conditions

(5) Separation Decision Date / Characterization: 26 April 2007 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 16 November 2003 / 2 years

b. Age at Enlistment / Education / GT Score: 20 / High School Graduate / 102

c. Highest Grade Achieved / MOS / Total Service: E-4 / 11B10, Infantryman / 4 years, 2 months, and 28 days

d. Prior Service / Characterizations: 16 November 2001 - 15 November 2003 / HD

e. Overseas Service / Combat Service: SWA / Iraq (28 February 2003 - 15 February 2004)

f. Awards and Decorations: NDSM, ASR / The applicant provided Permanent Orders 196-627, 15 July 2002, awarding a Combat Infantry Badge (CIB), however, the award is not reflected on the DD Form 214. The applicant's AMHRR reflects award of the Army Commendation Medal (ARCOM), however, the award is not reflected on the DD Form 214.

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) DA Form 268 (Report to Suspend Favorable Personnel Actions (Flag)), dated 3 April 2004, shows the applicant was flagged for adverse action (AA), effective 3 April 2004.

(2) Charge Sheet, shows on 1 February 2005 charges were preferred against the applicant for being AWOL from 1 February 2005 and remained absent until on or about an unknown date.

(3) On 2 February 2005, the applicant's duty status changed from present for duty (PDY) to AWOL, effective 1 February 2005.

(4) On 3 March 2005, the applicant's duty status changed from AWOL to dropped from rolls (DFR), effective 3 March 2005 and was considered a deserter. The applicant's adverse action (AA) flag was removed as disciplinary action taken (AD) effective 3 March 2005.

(5) On 31 August 2006, the applicant was apprehended by civilian authorities and returned to military control.

(6) Report of Result of Trial shows the applicant was tried in a Special Court-Martial on 14 February 2007. The applicant was charged with violation of:

(a) Charge I, Article 86, offenses, pleas, and findings:

- Specification 1: AWOL from on or about 22 October 2004 until on or about 2 November 2004, Plea - Guilty, Finding - Guilty
- Specification 2: AWOL from on or about 1 February 2005 until apprehended on or about 31 August 2006, Plea - Guilty, Finding - Guilty

(b) Charge II, in violation of Article 112a, offenses, pleas, and findings:

- Specification 1: Wrongfully use cocaine on or about 26 October 2004 and on or about 2 November 2004, Plea - Guilty, Finding - Guilty
- Specification 2: Wrongfully use cocaine on or about 6 December 2004 and on or about 13 December 2004, Plea - Not Guilty, Finding - Dismissed (Per Offer to Plead Guilty, 29 January 2007)
- Specification 3: Wrongfully use D-methamphetamine on or about 8 December 2004 and on or about 13 December 2004, Plea - Not Guilty, Finding - Dismissed (Per Offer to Plead Guilty, 29 January 2007)
- Specification 4: Wrongfully use D-methamphetamine on or about 16 January 2005 and on or about 18 January 2005, Plea - Guilty, Finding - Guilty
- Specification 5: Wrongfully use Methylenedioxyamphetamine on or about 6 December 2004 and on or about 13 December 2004, Plea - Not Guilty, Finding - Dismissed (Per Offer to Plead Guilty, 29 January 2007)
- Specification 6: Wrongfully use Methylenedioxyamphetamine on or about 11 January 2005 and on or about 18 January 2005, Plea - Guilty, Finding - Guilty

(c) The applicant was sentenced to confinement for 4 months and a bad conduct discharge. The sentence was adjudged on 14 February 2007.

(7) Confinement order, 14 February 2007, shows the applicant was to be confined for 4 months and receive a bad conduct discharge.

(8) On 2 March 2007, the applicant's duty status changed from PDY to Confined Military Authorities (CMA), effective 5 February 2007.

(9) Memorandum for Commander, 101st Airborne Division (Air Assault), Fort Campbell, KY, Staff Judge Advocate's Recommendation on a Rehearing in the Bad Conduct Discharge Special Court-Martial Case of United States v. (Applicant), 15 March 2007, states:

(a) The applicant was charged with two specifications of AWOL and six specifications of wrongful use of illegal drugs. On 31 January 2007, the applicant offered to plead guilty to both specifications of AWOL and three specifications of wrongful use of illegal drugs in exchange for the convening authority's agreement to disapprove any adjudged confinement in excess of 5 months. The convening authority accepted that offer on 7 February 2007.

(b) The applicant's court-martial was heard on 14 February 2007. The military judge accepted the applicant's pleas of guilty and adjudged a sentence of confinement for a period of 4 months and a bad-conduct discharge.

(c) On 15 February 2007, the court reporter that was assigned to the applicant's court-martial inadvertently deleted the digital recording of the proceedings. Accordingly, the court reporter was unable to produce a verbatim record of trial. The court reporter was only able to produce a summarized record of trial.

(d) The applicant was found guilty of both specifications of charge I and specifications 1, 3, and 6 of charge II.

(e) Recommendation: The convening authority withdraw the rehearing ordered by Brigadier General O __, dated 2 March 2007 and order a rehearing in U.S. v. the applicant as to specifications 1 and 2 of charge I and specifications 1, 3, and 6 of charge II in accordance with R.C.M. 810 and 1103 (f)(2) and that the charges be referred to a rehearing by the court-martial convened by Court-Martial Convening Order Number 2, this Headquarters, dated 20 November 2006.

(f) The convening authority approved the recommendations of the Staff Judge Advocate. The convening authority withdrew the rehearing ordered by Brigadier General O __, dated 2 March 2007 and ordered a rehearing in U.S. v. the applicant as to specifications 1 and 2 of charge I and specifications 1, 3, and 6 of charge II.

(10) On 19 March 2007, post-trial the applicant received consultation with the defense counsel, and voluntarily requested in writing, a discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial. This request was conditioned upon disapproval of all findings of guilt.

(11) On 2 and 4 April 2007, the company, battalion, and intermediate commanders recommended approval of the applicant's request for a chapter 10 with all recommendations of an under other than honorable conditions discharge.

(12) On 26 April 2007:

(a) The applicant's duty status changed from CMA to PDY, effective 24 April 2007.

(b) Memorandum for Commander, 101st Airborne Division (Air Assault), Fort Campbell, KY, Request for Post-Trial Discharge in Lieu of Trial by Court-Martial under provisions of AR 635-200, Chapter 10 in the Bad Conduct Discharge Special Court-Martial Case of U.S. v.

(Applicant), 26 April 2007, states: On 19 March 2007, the applicant, through defense counsel, submitted a post-trial request for discharge in lieu of trial by court-martial. The request was “conditioned upon disapproval of all findings of guilt.” The Staff Judge Advocate recommended approval of the post-trial request for discharge in lieu of trial by court-martial with the issuance of an under other than honorable conditions discharge. The Staff Judge Advocate further recommended that the convening authority act on the applicant’s case by: withdrawing the charges previously referred for a rehearing to the special court-martial convened by Court-Martial Convening Order 2, Headquarters, 101st Airborne Division (Air Assault) and Fort Campbell, KY, dated 20 November 2006; and disapproving the findings of guilt and sentence in the applicant’s case. Action on the findings and sentence, however, should be deferred until after execution of the applicant’s under other than honorable conditions discharge.

(c) The convening authority approved the Staff Judge Advocate’s recommendations. The request for a post-trial discharge in lieu of trial by court-martial under the provisions of AR 635-200, Chapter 10, was approved with an under other than honorable conditions discharge and reduction from specialist (E-4) to the grade of private (E-1).

(13) Special Court-Martial Order Number 15, dated 13 September 2007, shows the convening authority dismissed the charges and their specifications. All rights, privileges, and property of which the applicant had been deprived by virtue of these proceedings would be restored.

i. Lost Time / Mode of Return: 1 year and 10 months:

- AWOL, 22 October 2004 - 1 November 2004 / NIF (see Memorandum for Record, Missing Documents, 2May 2007)
- AWOL, 1 February 2005 - 30 August 2006 / Apprehended by Civil Authorities
- CMA, 5 February 2007 - 23 April 2007 / Released from Confinement

j. Behavioral Health Condition(s):

(1) **Applicant provided:** None

(2) **AMHRR Listed:** None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 149; applicant self-authored letter; awards; Readjustment Counselor notes; Authorization; seven character letters; RCS Client Information Record.

6. POST SERVICE ACCOMPLISHMENTS: Worked CSX Railroad for 2 years and currently has been working for Safelite Auto Glass since 2014 and has been managing two locations since 2016.

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

a. Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical

psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

b. Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

(1) Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

c. Army Regulation 15-180 (Army Discharge Review Board), sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

d. Army Regulation 635-200 provides the basic authority for the separation of enlisted personnel.

(1) 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 10 provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for a discharge for the good of the Service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt.

(5) Paragraph 10-8a stipulates a discharge under other than honorable conditions normally is appropriate for a Soldier who is discharged in lieu of trial by court-martial. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record during the current enlistment. (See chap 3, sec II.)

(6) Paragraph 10-8b stipulates Soldiers who have completed entry-level status, characterization of service as honorable is not authorized unless the Soldier's record is otherwise so meritorious that any other characterization clearly would be improper.

(7) 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.

e. Army Regulation 635-5-1 (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 "KFS" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 10, In Lieu of Trial by Court-Martial.

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 waivable. Eligibility: Ineligible unless a waiver is granted.

(3) RE-4 Applies to: Person separated from last period of service with a nonwaivable 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 a DD Form 214 with honorable service from November 2001 to January 2004. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's DD Form 214 shows the applicant served 4 years, 2 months, and 28 days. The applicant was charged with two specifications of AWOL and six specifications of wrongful use of illegal drugs. On 31 January 2007, the applicant offered to plead guilty to both specifications of AWOL and three specifications of wrongful use of illegal drugs in exchange for the convening authority's agreement to disapprove any adjudged confinement in excess of 5 months. The convening authority accepted that offer on 7 February 2007. The applicant's court-martial was heard on 14 February 2007. The military judge accepted the applicant's pleas of guilty and adjudged a sentence of confinement for a period of 4 months and a bad-conduct discharge. The applicant was found guilty of both specifications of charge I and specifications 1, 3, and 6 of charge II. On 19 March 2007, post-trial the applicant voluntarily requested a discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial. This request was conditioned upon disapproval of all findings of guilt. On 26 April 2007, the convening authority approved the applicant's post-trial request for discharge in lieu of trial by court-martial under the provisions of AR 635-200, Chapter 10, with an under other than honorable conditions discharge and reduction from specialist (E-4) to the grade of private (E-1). Special Court-Martial Order Number 15, dated 13 September 2007, shows the convening authority dismissed the charges and their specifications. All rights, privileges, and property of which the applicant had been deprived by virtue of these proceedings would be restored.

c. The evidence in the applicant's AMHRR confirms the applicant was charged with the commission of an offense punishable under the UCMJ with a punitive discharge. The applicant, in consultation with legal counsel, voluntarily requested, in writing, a discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial. In this request, the applicant admitted guilt to the offense, or a lesser included offense, and indicated an understanding an under other than honorable conditions discharge could be received, and the discharge would have a significant effect on eligibility for veterans' benefits. The under other than honorable conditions discharge received by the applicant was normal and appropriate under the regulatory guidance. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record during the current enlistment.

d. The applicant worked at CSX Railroad for 2 years and currently has been working for Safelite Auto Glass since 2014 and has been managing two locations since 2016. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. However, there is no law or regulation which provides an unfavorable discharge

may be upgraded based solely on the passage of time or good conduct in civilian life subsequent to leaving the service. Outstanding post-service conduct, to the extent such matters provide a basis for a more thorough understanding of the applicant's performance and conduct during the period of service under review, is considered during Board proceedings. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

e. Five of the character letters provided with the application speak highly of the applicant while serving in the military. Two of the character letters recognize the applicant's amazing leadership in their organization after leaving the Army.

f. Analyst notes the applicant's DD Form 214 has administrative irregularities as follows:

(1) Block 12f (Foreign Service), does not reflect foreign service credit in Afghanistan and Iraq.

(2) AR 635-5, states from the enlisted record brief, enter the total amount of foreign service completed during the period covered in block 12c (Net Active Service this Period).

(3) Block 13 (Decorations, Medals, Badges, Citations and Campaign Ribbons Awarded or Authorized), does not reflect a CIB and ARCOM.

(4) AR 635-5, list awards and decorations for all periods of service in the priority sequence specified in AR 600-8-22 (Military Awards). Each entry will be verified by the Soldier's records. Do not use abbreviations.

(5) The applicant provided Permanent Orders 196-627, 15 July 2002, awarding a CIB for engaging in active ground combat. And the applicant's AMHRR contains a DA Form 4980-14 (ARCOM certificate) that shows the applicant served in Iraq from 28 February 2003 to 15 February 2004.

(6) This does not fall within this Board's purview; however, the applicant may apply to the ABCMR, using the enclosed DD Form 149 regarding this matter. A DD Form 149 may also be obtained from a Veterans' Service Organization.

g. 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. DOCUMENTS / TESTIMONY PRESENTED DURING PERSONAL APPEARANCE: In addition to the evidence in the record, the Board carefully considered the additional document(s) and testimony presented by the applicant at the personal appearance hearing.

a. **The applicant submitted the following additional document(s):** Applicant and character witness provided oral argument and statements in support of the contentions provided in written submissions and in support of previously submitted documentary evidence.

b. **The applicant presented the following additional contention(s):** N/A.

c. **Counsel / Witness(es) / Observer(s):** [REDACTED]

10. 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 diagnosis: Post-service diagnosis of PTSD.

(2) Did the condition exist or experience occur during military service? **Yes.** The applicant asserts PTSD in-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 given the nexus between PTSD, avoidance, and substance use the basis for separation is mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's Post Traumatic Stress Disorder outweighed the applicant's AWOL and illegal substance abuse offenses.

b. Response to Contention(s):

(1) The applicant contends a Post Traumatic Stress Disorder impacted the applicant's decisions and led to the misconduct. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder outweighed the applicant's AWOL and illegal substance abuse offenses. Therefore, a discharge upgrade is warranted.

(2) The applicant contends good service. The Board considered the applicant's prior period of honorable service but ultimately did not address the contention due to an upgrade being granted based on the applicant's PTSD fully outweighing the applicant's AWOL and drug abuse basis for separation.

c. The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's AWOL and illegal substance abuse 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 outweighed the applicant's AWOL. 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.

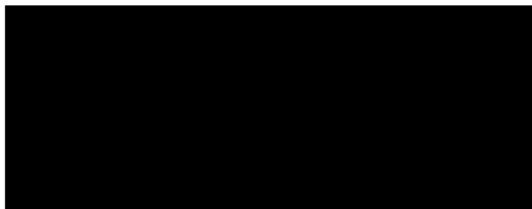
(3) The RE code will not change due to the applicant's behavioral health diagnoses. The current code is consistent with the procedural and substantive requirements of the regulation.

11. 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:

3/12/2024



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