

**1. Applicant's Name:**

- a. **Application Date:** 28 October 2020
- b. **Date Received:** 12 January 2021
- c. **Counsel:** None

**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:****a. Applicant's Requests and Issues:**

(1) The current characterization of service for the period under review is general honorable conditions. The applicant requests an upgrade to honorable.

(2) The applicant seeks relief stating they are in school currently and want to use their accrued GI Bill benefits for graduate school. They have been working hard to improve themselves since being discharged from the Army. They have been paying off all fines and ticket expenses and focused on their education to improve their life. They plan on going to graduate school following graduation with their undergraduate degree and their GI Bill would be of great assistance.

**b. Board Type and Decision:** In a records review conducted on 18 December 2024, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

*Please see Section 9 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:** Pattern of Misconduct / Army Regulation 635-200, Paragraph 14-12B / JKA / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 30 June 2017

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 25 May 2017

(2) **Basis for Separation:**

- repeatedly failed to be at their appointed place of duty
- disrespectful towards a superior noncommissioned officer (NCO)
- made false official statement to an NCO
- derogatory posts about NCOs on social media, such conduct being prejudicial to good order and discipline

(3) **Recommended Characterization:** General (Under Honorable Conditions)

(4) **Legal Consultation Date:** 13 June 2017

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

**(6) Separation Decision Date / Characterization:** 23 June 2017 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 25 February 2014 / 3 years, 19 weeks

**b. Age at Enlistment / Education / GT Score:** 22 / Complete One Semester College / 110

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 88M1O, Motor Transport Operator / 3 years, 4 months, 6 days

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

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

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

**g. Performance Ratings:** NA

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

**(1)** A DA Form 2627 (Record of Proceedings under Article 15, UCMJ), dated 12 December 2014, reflects the applicant received nonjudicial punishment for, having knowledge of a lawful order, an order which it was their duty to obey, did, on or about 27 November 2014, failed to obey the same by wrongfully traveling over 300 miles without a mileage pass, in violation of Article 92 (Failure to Obey Order or Regulation). The applicant's punishment consisted of reduction in rank/grade from private first class/E-3 to private/E-1 and extra duty and restriction for 14 days. The applicant elected not to appeal.

**(2)** A memorandum, Headquarters, Fort Campbell, subject: Administrative Reprimand, dated 17 December 2014, reflects the applicant was reprimanded in writing for driving a motor vehicle on 27 November 2014, in the state of Indiana with a blood alcohol content of 0.156 percent, in violation of Indiana law. On 8 January 2015, the issuing authority directed the reprimand be filed in the applicant's Army Military Human Resource Record (AMHRR).

**(3)** A DA Form 2808 (Report of Medical Examination) dated 1 March 2017, reflects the applicant is qualified for service with no physical profile limitations.

- item 77 (Summary of Medical Diagnoses) – reflects calcaneal spur, pes planus, major depressive disorder, anxiety, right knee pain and patellar tendonitis
- item 78 (Recommendations) – reflects follow up for treatments/therapy as scheduled

**(4)** Six DA Forms 4856 (Developmental Counseling Form) dated 30 December 2014 through 24 May 2017, reflects the applicant received multiple event oriented counseling for misconduct, to include, driving while privileges revoked, failure to follow instructions, receiving a speeding ticket, lying to an NCO, violation of social media policy, and disrespectful to an NCO.

**(5)** Two DA Forms 4856 dated 28 April 2017 and 1 May 2017, reflects the applicant received counseling notifying them of the initiating of separation actions and the initiation of a Bar to Continued Service.

**(6)** A DA Form 3822 (Report of Mental Status Evaluation) dated 15 May 2017; reflects the applicant's behavioral health disorder present resulting in duty limitations that my impact deployability.

**(a)** Section IV (Diagnoses) – reflects behavioral health diagnosis is deferred.

**(b)** Section V (Follow-up Recommendations) – recommends follow-up with behavioral health services.

**(7)** A memorandum, 74th Composite Truck Company, 129th Combat Sustainment Support Battalion, subject: Separation under Army Regulation 635-200, Paragraph 14-12b, Pattern of Misconduct, [Applicant], dated 25 May 2017, the applicant's company commander notified the applicant of their intent to separate them under the provisions of Army Regulation 635-200, Chapter 14-12b, a pattern of misconduct, with a recommended characterization of service general (under honorable conditions) for adverse action described in previous paragraph 3c(2). On that same date, the applicant acknowledged the basis for the separation and of the rights available to them.

**(8)** On 13 June 2017, the applicant completed their election of rights signing they had been advised by counsel of the basis for their separation and its effects and of the rights available to them. They understood they many expect to encounter substantial prejudicial in civilian life if a general (under honorable conditions) discharge is issued to them.. The do not believe that they suffer from PTSD or Traumatic Brain Injury as a result of deployment overseas in support of a contingency operations in the past 24 months. They elected to submit statement in their behalf stating, they take full responsibility for all actions they are being accused of. They have learned from their mistakes and when they had issues with being disrespectful in the past, they were able to be rehabilitated by switching companies. They are not granted any form of rehabilitation for the issues being addressed in this chapter packet. From their point of view, their chain of command has given up on them entirely.

**(9)** A memorandum, 74th Composite Truck Company, 129th Combat Sustainment Support Battalion, subject: Commander's Report – Proposed Separation under Army Regulation 635-200, Paragraph 14-12b, Pattern of Misconduct, [Applicant], dated 22 June 2017, the applicant's company commander submitted a request to separate them from the Army prior to their expiration of current term of service.

**(10)** A memorandum, Headquarters, 101st Airborne Division (Air Assault) Sustainment Brigade, subject: Separation under Army Regulation 635-200, Paragraph 14-12b, Pattern of Misconduct, [Applicant], dated 23 June 2017, the separation authority, having reviewed the separation packet directed that the applicant be discharged from the Army prior to the expiration of current term of service, and their service be characterized as General (Under Honorable Conditions). The separation authority after reviewing the rehabilitative transfer requirement, determined the requirements are waived, as the transfer will serve no useful purpose or produce a quality Soldier.

**(11)** A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 30 June 2017, with 3 years, 4 months, and 6 days of net active service this period. The DD Form 214 shows in –

- item 4a (Grade, Rate or Rank) – Private
- item 4b (Pay Grade) – E-1
- item 12i (Effective Date of Pay Grade) – 23 May 2017

- item 18 (Remarks) – in part, Member has not completed first full term of service

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

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

**(1) Applicant provided:** None

**(2) AMHRR Listed:** DD Form 2808, reflecting diagnoses of Major Depressive Disorder (MDD) and Anxiety.

**5. APPLICANT-PROVIDED EVIDENCE:**

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- Community College Transcript

**6. POST SERVICE ACCOMPLISHMENTS:** Completion of a total cumulative 75 hours at community college.

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

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

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

**(1)** Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or

sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

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

c. Army Regulation 15-6 (Procedures for Investigating Officers and Boards of Officers) establishes procedures for conducting preliminary inquiries, administrative investigations, and boards of officers when such procedures are not established by other regulations or directives. Paragraph 5-2 states IOs may use whatever method they deem most efficient and effective for acquiring information. Although witnesses may be called to present formal testimony, information may also be obtained by personal interview, correspondence, telephone inquiry, or other informal means.

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

e. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), dated 19 December 2016, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(1) An Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

(2) A General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

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

**(4)** Chapter 1 (General Provisions) sets policies, standards, and procedures to ensure readiness and competency of the force while providing for the orderly administrative separation of Soldiers, it provides in pertinent part:

**(a)** When a separation is ordered, the approved proceedings will be sent to the commander who has the Soldier's records for separation processing. The original copy of the proceedings will be filed in the permanent part of the Soldiers official personnel record.

**(b)** Army leaders at all levels must be continually aware of their obligation to provide purpose, direction, and motivation to Soldiers. It is essential that Soldiers who falter, but have the potential to serve honorably and well, be given every opportunity to succeed. Except as otherwise indicated, commanders must make maximum use of counseling and rehabilitation before determining that a Soldier has no potential for further useful service and ensure it occurs prior to initiating separation proceedings for reason to include Minor Disciplinary Infractions (14-12a) or a Pattern of Misconduct (14-12b).

**(5)** Chapter 14 (Separation for Misconduct) established policy and prescribed procedures for separating members for misconduct. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed. Paragraph 14-12b (Pattern of Misconduct), stated, a pattern of misconduct consisting of one of the following – discreditable involvement with civil or military authorities, or discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct found in the UCMJ, Army regulations, the civil law, and time-honored customs and traditions of the Army.

**(6)** Paragraph 14-3 (Characterization of Service or Description of Separation) prescribed 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.

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

**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 "JKA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12b, (Pattern of Misconduct).

**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 DoD Instructions 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.

## **8. SUMMARY OF FACT(S):**

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

**b.** A review of the available evidence provides the applicant received multiple event-oriented counseling for acts of misconduct, nonjudicial punishment for failure to obey order or regulation, and administrative reprimand for driving a motor vehicle under the influence. A DD Form 214 provides the applicant was discharged with a character of service of general (under honorable conditions) for a pattern of misconduct. They completed 3 years, 4 months, and 6 days of net active service; however, they did not complete their first full term of service of their 3-year, 19 week contractual service obligation.

**c.** Chapter 14 establishes policy and prescribes procedures for separation members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

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

## **9. BOARD DISCUSSION AND DETERMINATION:**

**a.** As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

**(1)** Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: Major Depressive Disorder (MDD-70%SC); Alcohol Abuse, uncomplicated.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found that the diagnosis of Major Depressive Disorder was made during active service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partial**  
The Board's Medical Advisor applied liberal consideration and opined that that the applicant has two BH conditions, MDD and Anxiety Disorder, which mitigate some of their misconduct. As there is an association between MDD, Anxiety Disorder, avoidance behavior and difficulty with authority figures, there is a nexus between their MDD, Anxiety Disorder, their repeated failures to be at their place of duty and their disrespectfulness towards NCOs. MDD and Anxiety Disorder, however, do not mitigate making false statements about NCOs or posting derogatory comments about NCOs on social media given that MDD, Anxiety Disorder do not affect one's ability to distinguish right from wrong and act in accordance with the right.

(4) Does the condition or experience outweigh the discharge? **No.** Based on liberally considering all the evidence before the Board, it was determined that the applicant's service connected MDD and Anxiety Disorder outweighed the following portion of the basis of separation – repeated failures to be at place of duty and disrespectfulness towards an NCO. However, the remaining portions of the basis of separation – making false statements about an NCO and posting derogatory comments about NCOs on social media - is not mitigated as the applicant's BH condition (MDD) does not affect one's ability to distinguish right from wrong and act in accordance with the right.

b. Prior Decisions Cited: None

c. Response to Contention(s):

(1) The applicant contends they are in school currently and want to use their accrued GI Bill benefits for graduate school. They plan on going to graduate school following graduation with their undergraduate degree and their GI Bill would be of great assistance. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

(2) The applicant contends, they have been working hard to improve themselves since being discharged from the Army. They have been paying off all fines and ticket expenses and focused on their education to improve their life. The Board considered this contention and determined that the applicant's hard work after service to improve their life does not outweigh the misconduct based on the seriousness of the applicant's offenses of making false statements about an NCO and making derogatory posts about NCOs on social media, such conduct being prejudicial to good order and discipline. The ADRB 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 must 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. In this case, the Board considered this contention and determined that it was not compelling enough to grant an upgrade.



**d.** The Board determined: Based on liberally considering all the evidence before the Board, the applicant's service connected MDD and Anxiety Disorder outweighed the following portion of the basis of separation – repeated failures to be at place of duty and disrespectfulness towards an NCO. However, the remaining portions of the basis of separation – making false statements about an NCO and posting derogatory comments about NCOs on social media - is not mitigated as the applicant's BH condition (MDD) does not affect one's ability to distinguish right from wrong and act in accordance with the right. With partial medical mitigation, and in consideration of the applicant's length of service, the Board voted 5-0 that the current discharge is Proper and Equitable.

**e. Rationale for Decision:**

**(1)** The Board voted not to change the applicant's characterization of service because, despite applying liberal consideration of all the evidence before the Board, the applicant's BH diagnoses did not excuse or mitigate the offenses of making false statements about an NCO and derogatory posts about NCOs on social media, such conduct being prejudicial to good order and discipline. The discharge was consistent with the procedural and substantive requirements of the regulation, was within the discretion of the separation authority, and the applicant was provided full administrative due process.

**(2)** The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same pretexts, as the reason the applicant was discharged was both proper and equitable.

**(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 / Separation Order:** No
- b. Change Characterization to:** No Change
- c. Change Reason / SPD code to:** No Change
- d. Change RE Code to:** No Change
- e. Change Authority to:** No Change

**Authenticating Official:**

1/16/2025

**X**

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Presiding Officer, COL, U.S. ARMY  
Army Discharge Review Board

**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

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

**AR20210007476**

SPD – Separation Program  
Designator  
TBI – Traumatic Brain Injury

UNC – Uncharacterized  
Discharge

UOTHC – Under Other Than  
Honorable Conditions

VA – Department of Veterans  
Affairs