

1. Applicant's Name: [REDACTED]

a. **Application Date:** 26 October 2020

b. **Date Received:** 29 October 2020

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 (under honorable conditions). The applicant requests an upgrade to honorable.

(2) The applicant seeks relief stating they were diagnosed with Post-Traumatic Stress Disorder (PTSD)/Major Depressive Disorder after they were discharged from service. This condition was a major factor in the circumstances of their discharge from the U.S. Army.

b. Board Type and Decision: In a records review conducted on 28 February 2024, and by a 5-0 vote, the board determined the characterization is inequitable based on the applicant's service record, length of service, length of time since the discharge, and compassion for applicant's significant family issues and medical diagnosis of MDD and PTSD partially mitigate some of the misconduct (breaking restriction on three separated occasions). The additional unmitigated misconduct is outweighed by the applicant's service record (Length, Quality). 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.

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: 29 December 2006

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 27 November 2006

(2) **Basis for Separation:** the applicant received two Summary Court-Martial convictions within the last 4 months.

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

(4) **Legal Consultation Date:** 4 December 2006

(5) **Administrative Separation Board:** On 27 September 2006, the applicant agreed to waive any right they have to a hearing before an Administrative Separation Board as it relates to an administrative separation initiated and/or approved with a characterization of service or

description of separation of either honorable or general (under honorable conditions). Provided that the convening authority agrees to dismiss, with prejudice Charge I, violation of Article 92, Failure to Obey an Order or Regulation, Uniform Code of Military Justice (UCMJ), to wit: failed to submit mileage pass when traveling 250 miles from post; and take action consistent with Appendix I to the Offer to Plead Guilty.

(6) Separation Decision Date / Characterization: 8 December 2006 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 27 July 2004 / Indefinite

b. Age at Enlistment / Education / GT Score: 30 / HS Graduate / 100

c. Highest Grade Achieved / MOS / Total Service: E-7 / 74D3O, Chemical Operations Specialist / 13 year, 5 months, 3 days.

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Germany, Bosnia-Herzegovina / None

f. Awards and Decorations: ARCOM, AAM-2, AGCM-4, NDSM, AFEM, GWTEM, NCOPDR-2, ASR, NATOMDL

g. Performance Ratings: December 1996 – December 1998 / Among The Best
 January 1999 – May 2006 / Among The Best
 31 May 2006 – 21 December 2006 / Marginal

h. Disciplinary Action(s) / Evidentiary Record:

(1) A DD Form 2329 (Record of Trial by Summary Court-Martial) and DA Form 4430 (Department of the Army Report of Result of Trial) dated 12 June 2006, reflects the applicant –

- was found guilty of one specification in violation of Article 92, Failure to Obey an Order or Regulation, UCMJ, to wit: by wrongfully having a personal relationship with an officer in their unit.
- was found guilty of one specification in violation of Article 107, False Official Statement, UCMJ, to wit: with the intent to deceive, stated they did not have intercourse with said officer and they did not have any contact with said officer, which statement was totally false.
- was found guilty of one specification in violation of Article 134, General Article, UCMJ, as a married Soldier, did, wrongfully have sexual intercourse with said officer, a married officer not their spouse.
- had their sentence adjudged, and their punishment consisted of forfeiture of two thirds pay and 2 months of restriction?

(2) A DD Form 2329 and DA Form 4430 dated 2 October 2006, reflects the applicant's

- specification in violation of Article 92, Failure to Obey an Order or Regulation, UCMJ, to wit: failed to submit mileage pass when traveling 250 miles from post, was dismissed by trial counsel.

- three specifications in violation of Article 134, General Article, UCMJ, of having been restricted to the limits of home, workplace, gym, church, post exchange, and commissary, did break restriction on three occasions, was found guilty.
- sentence was adjudged, and their punishment consisted of reduction in rank/grade from sergeant first class/E-7 to staff sergeant/E-6, forfeiture of \$955.00 pay and 12 days of restriction.

(3) A DA Forms 4856 (Developmental Counseling Form), dated 4 October 2006, reflects the applicant received developmental counseling from their company first sergeant/E-8, notifying the applicant of their intention to recommend to the company commander that they be discharged under the provision of Army Regulation 635-200, paragraph 14-12b (Pattern of Misconduct). The first sergeant states the applicant, over the course of the last 4 months had undergone court-martial proceeding twice. The second time due to failing to adhere to the punishment of restriction imposed by the first court-martial. This type of behavior is detrimental to the good order and discipline that is required of all Soldiers in the U.S. Army. As a noncommissioned officer (NCO), they are expected to perform at a higher level of discipline and responsibility.

(4) A DD Form 2807-1 (Report of Medical History), dated 10 October 2006, reflects the applicant self-reported they are being seen for counseling for depression.

(5) A DD Form 2808 (Report of Medical Examination), dated 10 October 2006, reflects the applicant is qualified for service with no physical profile limitations. Item 77 (Summary of Defects and Diagnoses) reflects a defect and diagnosis of depression.

(6) A Mental Status Evaluation, dated 31 October 2006, reflects the applicant received a mental status evaluation as they are being considered for discharge because of misconduct.

(a) In Section III (Impression) reflects the applicant has the mental capacity to understand and participate in the proceedings, was mentally responsible, and meets the retention requirements.

(b) In the Remarks block, the clinical psychologist states the applicant is cleared for any administrative action deemed appropriate by command. [Note: there was no mental health diagnosis in evidence.]

(7) A memorandum, 82nd Chemical Battalion, 3rd Chemical Brigade, subject: Notification of Separation under Army Regulation 635-200, Chapter 14-12b, dated 27 November 2006, the applicant's company notified the applicant of initiating actions to separate them for a Pattern of Misconduct. The reason for the proposed action is the applicant received two Summary Court-Martial convictions within the last 4 months. The commander recommended the applicant be separated and to receive a general (under honorable conditions) separation.

(8) On 4 December 2006, the applicant completed their election of rights signing they had been advised by consulting counsel of the basis for the contemplated action to separate them under the provisions of Army Regulation 635-200, chapter 14, paragraph 12b, a pattern of misconduct; the effects of such separation and the rights available to them and the effect of any action taken by them in waiving their rights. They elected to not submit a statement on their behalf. They understood that as the result of issuance of a discharge under other than Honorable conditions, they may be ineligible for many or all benefits as a veteran under both federal and state laws and that they may expect to encounter substantial prejudice in civilian life.

(9) A memorandum, 82nd Chemical Battalion, 3rd Chemical Brigade, subject: Recommendation for Separation under Army Regulation 635-200, Chapter 14-12b, dated 5 December 2006, the applicant's company commander submitted the request to separate the applicant prior to their expiration term of service. The commander stated the applicant has violated the accepted standards of personal conduct found in the UCMJ, Army regulations, the civil law, and time-honored customs and traditions of the Army.

(10) A memorandum, 82nd Chemical Battalion, 3rd Chemical Brigade, subject: Recommendation for Separation under Army Regulation 635-200, Chapter 14-12b, dated 5 December 2006, the applicant's battalion commander recommended the request for separation of the applicant, from the service under the provisions of Army Regulation 635-200, Chapter 14-12b, for a pattern of misconduct be approved. They further recommend the separation authority consider a discharge with a characterization of service as general (under honorable Conditions).

(11) A memorandum, Office of the Staff Judge Advocate, U.S. Army Maneuver Support Center and Fort Leonard Wood, subject: Legal Review of Separation under the Provisions of Army Regulation 635-200, Chapter 14-12b, [Applicant], dated 7 December 2006, the trial counsel states they have reviewed the recommendation for separation of the applicant and found it legally sufficient. The evidence supports the findings and the recommendation for separation. Under the provisions of Army Regulation 653-200, paragraph 1-19, the brigade commander is the separation authority. In the separation authority's memorandum, include the sentence "I have determined through common sense and sound judgment that a rehabilitative transfer will serve no useful purpose."

(12) A memorandum, 3rd Chemical Brigade, U.S. Army Chemical School, subject: Recommendation for Separation under Army Regulation 635-200, Chapter 14-12b, dated 8 December 2006, the applicant's brigade commander [Separation Authority] recommended the applicant receive a separation with a characterization of service as general (under honorable Conditions). The commander states the applicant has on numerous occasions violated Army Regulation 600-20 (Army Command Policy) and the UCMJ. This behavior seriously compromises their character and their status as an NCO in the U.S. Army. The commander states they have determined through common sense and sound judgement that a rehabilitative transfer will serve no useful purpose.

(13) On 29 December 2006, the applicant was discharged accordingly, the DD Form 214 (Certificate of Release or Discharge from Active Duty) provides the applicant completed 13 year, 5 months, and 3 days of net active service this period. The DD Form 214 shows in –

- item 4a (Grade, Rate or Rank) – Staff Sergeant
- item 4b (Pay Grade) – E-6
- item 12i (Effective Date of Pay Grade) – 2 October 2006
- item 18 (Remarks) – in part, Member has completed first full term of service.
- item 24 (Character of Service) – General (Under Honorable Conditions)
- item 26 (Separation Code) – JKA [Pattern of Misconduct]
- item 27 (Reentry Code) – 3
- item 28 (Narrative Reason for Separation) – Pattern of Misconduct

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) **AMHRR Listed:** DD Form 2807-1 and DD Form 2808, reflects treatment and diagnosis of depression.

5. **APPLICANT-PROVIDED EVIDENCE:** None

6. **POST SERVICE ACCOMPLISHMENTS:** none submitted with application.

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 15-180 (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.

d. Army Regulation 600-20 (Army Command Policy) dated 7 July 2006, prescribed the policies and responsibilities of command, which included the well-being of the force, military discipline and conduct, the Army Equal Opportunity Program, and the Army Sexual Assault Victim Program.

(1) Paragraph 4-4 (Soldier Conduct) stated ensuring the proper conduct of Soldiers is a leave status, will ensure all Soldiers present a neat, military appearance and take appropriate action consistent with Army regulations in any case where a Soldier's conduct violates good order and military discipline.

(2) Paragraph 4-14 (Relationships Between Soldiers of Different Grades) stated relationships between Soldiers of different grades are prohibited if they:

(a) compromise, or appear to compromise, the integrity of supervisory authority or the chain of command.

(b) cause actual or perceived partiality or unfairness.

(c) involve, or appear to involve, the improper use of grade or rank or position for personal gain.

(d) are, or are perceived to be, exploitative or coercive in nature; or

(e) create an actual or clearly predictable adverse impact on discipline, authority, morale, or the ability of the command to accomplish its mission.

(3) Paragraph 4-14c stated certain types of personal relationships between officers and enlisted Soldiers or NCOs and junior enlisted Soldiers are prohibited. Prohibited relationships include dating, shared living accommodations other than those directed by operational requirements, and intimate or sexual relationships between officers and enlisted personnel or NCOs and junior enlisted Soldiers.

(4) Paragraph 4-14f stated commander should seek to prevent inappropriate or unprofessional relationships through proper training and personal leadership. Commanders have a wide range of responses available should inappropriate relationships occur. These responses may include counseling, reprimand, order to cease, reassignment, or adverse action. Potential adverse action may include official reprimand, adverse evaluation report(s), nonjudicial

punishment, separation, bar to continued service, promotion denial, demotions, and courts-martial. Commanders must carefully consider all of the facts and circumstances in reaching a disposition that is warranted, appropriate, and fair.

e. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), dated 6 July 2005, 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) Paragraph 1-19 (Authority to Approve or Disapprove Separation) stated commanders who are special court-martial -convening authorities are authorized to approve or disapprove separation under chapter 14, when discharge under other than honorable conditions is not warranted, and the notification procedure is used.

(6) 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.

(7) 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.

(8) 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 (Separation Documents) dated 30 September 2000 prescribed the separation documents that must be prepared for Soldiers upon retirement, discharge, or release from active duty service or control of the Active Army. It established standardized policy for preparing and distributing the DD Form 214. The general instructions stated to ensure that all information entered on the DD Form 214 is accurate. The specific instructions for item 18 (Remarks) for Soldiers who have previously reenlisted without being issued a DD Form 214 and are separated with any characterization of service except "HONORABLE," enter "CONTINUOUS HONORABLE ACTIVE SERVICE FROM (first day of service which DD Form 214 was not issued) UNTIL (date before commencement of current enlistment)." Then, enter the specific periods of reenlistments as prescribed above.

g. 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).

h. 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 Department of Defense Instruction 1332.28.

b. The applicant's AMHRR reflects the received two Summary Court-Martial Convictions for misconduct in violations of the UCMJ. The applicant's DD Form 214 indicates their discharge under the provisions of Army Regulation 635-200, paragraph 14-12b, by reason of a pattern of misconduct, with a characterization of service of general (under honorable conditions). They completed 13 year, 5 months, and 3 days of net active service; however, they did not complete their contractual reenlistment agreement obligation.

c. The evidence shows the applicant received a general discharge rather than a discharge under other than honorable conditions, which is normally considered appropriate. Review of their DD Form 214 provides administrative error, item 12 (Remarks) is void of the required "CONTINUOUS HONORABLE SERVICE..." remark according to Army Regulation 635-5.

d. The applicant's Army Military Human Resource Record provides documentation of a diagnosis of Depression; however, their record does not provide documentation of a diagnosis of PTSD during the applicant's military service, nor did the applicant provide evidence.

e. 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.

f. 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: Major Depressive DO (MDD), PTSD.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found diagnosis of MDD was made during active duty. VA service connection for PTSD establishes it began and/or occurred during active duty.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partial.** The Board's Medical Advisor applied liberal consideration and opined that the applicant has two BH conditions, PTSD and MDD, which mitigate some of the misconduct. As there is an association between PTSD, MDD and problems with authority figures, there is a nexus between these conditions and the applicant's breaking of restriction on three occasions. Neither PTSD

nor MDD mitigate applicant's offense of committing adultery as neither condition affects 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.** Despite the board's application of liberal consideration, the board considered the opinion of the Board's Medical Advisor, a voting member, that the available evidence did not support a conclusion that the applicant's conditions outweighed the unmitigated basis for applicant's separation failure to obey an order or regulation/ wrongfully having a personal relationship with an officer, committing adultery, making a false official statement (with the intent to deceive), and failure to submit mileage pass.

b. Response to Contention(s):

(1) The applicant requests an upgrade to honorable. The board considered the totality of the applicant's service record and determined an upgrade is warranted based on the applicant's length of service, length of time since the discharge, and compassion for applicant's significant family issues and medical diagnosis of MDD and PTSD. 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 applicant has exhausted their appeal options available with ADRB. However, the applicant may still apply to the Army Board for Correction of Military Records. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

(2) The applicant contends stating they were diagnosed with Post-Traumatic Stress Disorder (PTSD)/Major Depressive Disorder after they were discharged from service. This condition was a major factor in the circumstances of their discharge from the U.S. Army. The board liberally considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted as detailed in paragraphs 9a (3-4) and 9b (1).

c. The board determined that the discharge is inequitable based on the applicant's service record, quality, length of time since the discharge, and compassion for the applicant's significant other family issues and medical diagnosis of MDD and PTSD. 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 eligibility (RE) code was proper and equitable and voted not to change it.

d. Rationale for Decision:

(1) The voted to change the applicant's characterization of service because, the applicant's service record, quality, length of time since the discharge, and compassion for the applicant's significant other family issues and medical diagnosis of MDD and PTSD partially outweighed the applicant's misconduct of two Summary Court-Martial convictions. Thus, the prior characterization is no longer appropriate.

(2) The board voted to change 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.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210007832

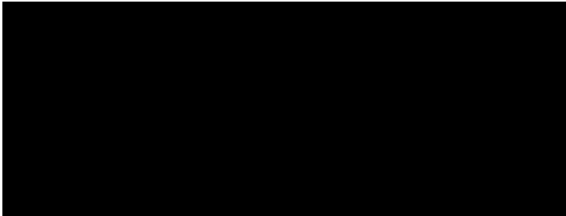
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. **Issue a New DD-214 / Separation Order:** 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, paragraph 14-12a

Authenticating Official:

6/24/2024



AWOL – Absent Without Leave
AMHRR – Army Military Human
Resource Record
BCD – Bad Conduct Discharge
BH – Behavioral Health
CG – Company Grade Article 15
CID – Criminal Investigation
Division
ELS – Entry Level Status
FG – Field Grade Article 15

GD – General Discharge
HS – High School
HD – Honorable Discharge
IADT – Initial Active Duty Training
MP – Military Police
MST – Military Sexual Trauma
N/A – Not applicable
NCO – Noncommissioned Officer
NIF – Not in File
NOS – Not Otherwise Specified

OAD – Ordered to Active Duty
OBH (I) – Other Behavioral
Health (Issues)
OMPF – Official Military
Personnel File
PTSD – Post-Traumatic Stress
Disorder
RE – Re-entry
SCM – Summary Court Martial
SPCM – Special Court Martial

SPD – Separation Program
Designator
TBI – Traumatic Brain Injury
UNC – Uncharacterized
Discharge
UOTHC – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs