

1. Applicant's Name: [REDACTED]**a. Application Date:** 1 February 2021**b. Date Received:** 4 February 2021**c. Counsel:** [REDACTED]**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

a. Applicant's Requests and Issues: The current characterization of service for the period under review is general (under honorable conditions). The applicant requests, through counsel, an upgrade to honorable and a narrative reason change.

The applicant's counsel seeks relief contending, in effect, the applicant's service-related mental health and traumatic brain injury (TBI) conditions extenuate and mitigates the single incident of misconduct underlying the discharge and the applicant's record and post-service life demonstrates the misconduct leading to the discharge was not a reflection of the applicant's service. The applicant's counsel states liberal consideration must be given to the applicant's diagnosed mental health and TBI disabilities in deciding whether or not to upgrade the discharge.

b. Board Type and Decision: In a records review conducted on 28 February 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's length of service and the circumstances surrounding the discharge (TBI, GAD). Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed 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 9 of this document for more detail regarding the Board's decision.

3. DISCHARGE DETAILS:

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

b. Date of Discharge: 15 April 2014**c. Separation Facts:**

(1) Date of Notification of Intent to Separate: 19 March 2014

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant was cited for Driving Under the Influence on 8 February 2014, with a blood alcohol content (BAC) of .27.

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

(4) Legal Consultation Date: On 18 March 2014, the applicant declined the opportunity to consult with counsel.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 28 March 2014 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 11 July 2011 / 3 years, 18 weeks

b. Age at Enlistment / Education / GT Score: 18 / HS Graduate / 98

c. Highest Grade Achieved / MOS / Total Service: E-4 / 13F1P, Fire Support Specialist / 2 years, 9 months, 5 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: None

f. Awards and Decorations: NDSM, GWOTSM, ASR, PARACHUTIST BADGE

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: DA Form 268 (Report to Suspend Favorable Personnel Actions (FLAG)), 8 February 2014, reflects the applicant was flagged due to involuntary separation, effective 8 February 2014.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: The applicant provides a letter from the Department of Veteran Affairs (VA), 10 April 2018, which reflects, in part, the applicant was awarded service connection for unspecified anxiety disorder with panic attacks and insomnia disorder (also claimed as mental disorder and sleep disturbance) granted with an evaluation of 50 percent, effective 23 December 2016.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293, Legal Brief with 9 exhibits (127 total pages), medical records (272 pages)

6. POST SERVICE ACCOMPLISHMENTS: The applicant is seeking a bachelor's degree, proactively seeking therapy for anxiety and other medical issues, and securing employment.

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

a. Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder

(PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

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

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

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

c. Army Regulation 15-180 (Army Discharge Review Board), dated 25 September 2019, sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

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

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(2) Paragraph 3-7a states 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.

(3) Paragraph 3-7b states 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.

(4) Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

(5) Paragraph 14-3 prescribes 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.

(6) Paragraph 14-12c, states a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

(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 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, misconduct (serious offense).

8. SUMMARY OF FACT(S): The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

The applicant requests, through counsel, an upgrade to honorable and a narrative reason change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant's counsel requests the applicant's narrative reason be changed. The applicant was separated under the provisions of AR 635-200, Chapter 14-12c, with a general (under honorable conditions) discharge and a RE code of "3." The narrative reason specified by Army Regulations for a discharge under this chapter is "Misconduct (Serious Offense)." Army Regulation 635-8, Separation Documents governs the preparation of the DD Form 214 and dictates the entry of the narrative reason for separation, entered in block 28 of the form. There is no provision for any other reason to be entered under this regulation.

The applicant's counsel contends the applicant's service-related mental health and TBI conditions extenuate and mitigates the single incident of misconduct underlying the discharge. The applicant's AMHRR is void of a mental health or TBI diagnosis. The applicant's counsel provides a letter from VA, 10 April 2018, which reflects, in part, the applicant was awarded service connection for unspecified anxiety disorder with panic attacks and insomnia disorder (also claimed as mental disorder and sleep disturbance) granted with an evaluation of 50 percent, effective 23 December 2016. Army Regulation 635-200, in pertinent part, stipulates circumstances in which the conduct or performance of duty reflected by a single incident provides the basis for a characterization.

The applicant's counsel contends the applicant's record and post-service life demonstrates the misconduct leading to the discharge was not a reflection of the applicant's service. The Board will consider the applicant service accomplishments and the quality of service according to the DODI 1332.28. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. 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.

The applicant's counsel states liberal consideration must be given to the applicant's diagnosed mental health and TBI disabilities in deciding whether or not to upgrade the discharge.

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: TBI/Concussion, Generalized Anxiety DO (100%SC). [Note: diagnoses of Post-Concussion Syndrome and Migraine Headache (50%SC) are subsumed under diagnosis of TBI/Concussion.]

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found TBI/Concussion were diagnosed during active service. VA service connection for GAD establishes nexus with active service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the applicant has two mitigating neurological conditions, TBI/Concussion and GAD. As there is an association between TBI, GAD and self-medication with alcohol, there is a nexus between his diagnosis of

TBI/Concussion and his arrest for DUI.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the applicant's condition or experience outweighed the listed basis for separation for the aforementioned reasons

b. Prior Decisions Cited: None

c. Response to Contention(s):

(1) The applicant's counsel contends the applicant's service-related mental health and TBI conditions extenuate and mitigates the single incident of misconduct underlying the discharge.

The Board considered this contention valid.

(2) The applicant's counsel contends the applicant's record and post-service life demonstrates the misconduct leading to the discharge was not a reflection of the applicant's service.

The Board acknowledged this contention.

d. The Board determined the discharge is inequitable based on the applicant's length and the circumstances surrounding the discharge (TBI, GAD). Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed 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.

e. Rationale for Decision:

(1) Based on a preponderance of evidence, the Board determined the character of service the applicant received upon separation was inequitable and voted to upgrade to Honorable. The Board concurred with the Medical Advisor's opine the applicant has full medical mitigation for the basis for separation (DUI). VA medical records indicate the applicant is 100% service connected for Generalized Anxiety Disorder (GAD) and 50% Service Connected for Migraine Headaches. The applicant has two mitigating neurological conditions, TBI/Concussion and GAD. As there is an association between TBI, GAD and self-medication with alcohol, there is a nexus between the diagnosis of TBI/Concussion and DUI arrest.

(2) The Board voted to change the applicant's reason for discharge to Misconduct (Minor Infractions) under the same reasons, 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**AR20210007937**

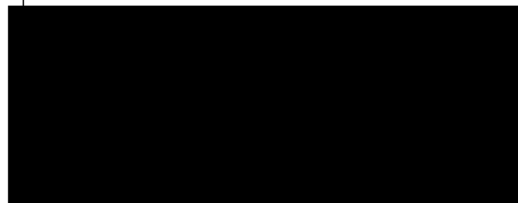
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

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: No change

Authenticating Official:

3/6/2025

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