

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 28 October 2020
- b. **Date Received:** 2 November 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 general (under honorable conditions). The applicant requests an upgrade to honorable along with a reentry (RE) code, separation program designator (SPD) code and a narrative reason change.

The applicant seeks relief contending, in effect, the applicant's misconduct was the result of combat related post-traumatic stress disorder (PTSD). The applicant received counseling and non-judicial punishment for incidents relating to alcohol and minor issues resulting from an unknown PTSD condition. The applicant does not dispute the veracity of these incidents but was suffering from serious issues relating to combat deployment. The applicant had anxiety about death, ultimately spiraling out of control and began coping with alcohol. The applicant was never diagnosed or treated for PTSD. Even though much of the misconduct involved alcohol, the applicant's command never referred the applicant to treatment. Prior to deploying, the applicant never had any misconduct issues. The applicant was not given the chance to rehabilitate. The minor misconduct does not warrant a general discharge or a narrative reason of serious offense.

b. **Board Type and Decision:** In a records review conducted on 17 January 2024, and by a 5-0 vote, the board determined the discharge is inequitable based on the applicant's behavioral health condition, PTSD, which partially mitigates some of the applicant's misconduct (being drunk on duty, violating a general order by possessing alcohol, failing to report, and falling asleep while on guard duty). The medically unmitigated misconduct of making a false official statement was outweighed by the applicant's in-service factor (combat) and post-service accomplishments. Therefore, the board voted to grant relief in the form of an upgrade to 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.

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:** Misconduct (Serious Offense) / AR 635-200, Paragraph 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 19 April 2007

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 4 April 2007

(2) Basis for Separation: The applicant was informed of the following reasons: On or about 11 March 2007, the applicant was found drunk on duty as Battalion Staff Duty Runner; on or about 11 March 2007, the applicant made a false official statement to a noncommissioned officer; on or about 26 January 2007, the applicant failed to go at the prescribed time to the appointed place of duty; on or about 20 December 2006, the applicant failed to go at the prescribed time to the appointed place of duty; on or about 31 May 2006, the applicant violated a lawful general order by possessing an alcoholic beverage within the Multi-National Division-Baghdad area of operation; and on or about 8 January 2006, the applicant was found sleep at the post as a lookout at guard tower 42.

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

(4) Legal Consultation Date: On 5 April 2007, the applicant declined the opportunity to consult with counsel.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 7 April 2009 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 26 January 2005 / 4 years

b. **Age at Enlistment / Education / GT Score:** 19 / HS Graduate / 105

c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 88M10, Motor Transport Operator / 2 years, 2 months, 24 days.

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

e. **Overseas Service / Combat Service:** SWA / Iraq (4 August 2005 – 27 July 2006)

f. **Awards and Decorations:** NDSM, GWOTSM, ICM, ASR, OSR

g. **Performance Ratings:** NA

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

(1) FG Article 15, 24 February 2006, reflects on or about 8 January 2006, the applicant was found sleeping at the post as a lookout guard. The punishment consisted of reduction to private/E-1; forfeiture of \$637 pay per month for 2 months; extra duty for 45 days; and an oral reprimand.

(2) FG Article 15, 21 June 2006, reflects the applicant violated a general order by possessing an alcoholic beverage within the MND-B-AOR. The punishment is not listed.

(3) CG Article 15, 2 April 2007, reflects the applicant failed to go at the prescribed time to the appointed place of duty on two separate occasions; on or about 11 March 2007, the applicant made a false official statement with intent to deceive; and on 11 March 2007, the applicant was found drunk on duty. The punishment consisted of forfeiture of \$303; extra duty and restriction for 14 days; and an oral reprimand.

(4) Report of Mental Status Evaluation (MSE), 21 February 2007, reflects the applicant had the mental capacity to understand and participate in the proceedings and was mentally responsible. The applicant understands right from wrong and was able to participate in defense with appropriate legal assistance.

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

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

(1) **Applicant provided:** The applicant provides page of a Department of Veteran Affairs (VA) Rating Decision which reflects, in part, the applicant's service connection for PTSD had been established as directly related to military service. An evaluation of 50-percent was assigned from 24 July 2019.

(2) **AMHRR Listed:** None

5. **APPLICANT-PROVIDED EVIDENCE:** DD Form 293, Counsel's Brief, DD Form 214, AAM Certificate, Resume, Notification Memorandum, Medical documents

6. **POST SERVICE ACCOMPLISHMENTS:** The applicant has been gainfully employed, attends church, and supports a family.

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.

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).

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:

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.

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.

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

The applicant requests the narrative reason, SPD code, and RE codes be changed. The applicant was separated under the provisions of AR 635-200, Chapter 14-12c, with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this chapter is "Misconduct (Serious Offense)" and the separation code is "JKQ." 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 and separation code, entered in block 26 of the form, will be as listed in tables 2-2 or 2-3 of AR 635-5-1, Separation Program Designator (SPD) Codes. The regulation stipulates no deviation is authorized. There is no provision for any other reason or SPD code to be entered under this regulation. 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.

The applicant contends the applicant's misconduct was the result of combat related PTSD. The applicant's AMHRR is void of a PTSD or any mental health issue. On 21 February 2007, the applicant underwent a MSE which reflects the applicant had the mental capacity to understand

and participate in the proceedings and was mentally responsible. The applicant understood right from wrong and was able to participate in defense with appropriate legal assistance. The applicant provides page of a Department of Veteran Affairs (VA) Rating Decision with reflects, in part, the applicant's service connection for PTSD had been established as directly related to military service. An evaluation of 50-percent was assigned from 24 July 2019

The applicant contends the applicant received counseling and non-judicial punishment for incidents relating to alcohol and minor issues resulting from an unknown PTSD condition. The applicant does not dispute the veracity of these incidents but was suffering from serious issues relating to combat deployment. The applicant had anxiety about death, ultimately spiraling out of control and began coping with alcohol.

The applicant contends the applicant was never diagnosed or treated for PTSD. Even though much of the misconduct involved alcohol, the applicant's command never referred the applicant to treatment nor was the applicant given the chance to rehabilitate.

The applicant contends prior to deploying, the minor misconduct does not warrant a general discharge, or a narrative reason of serious offense and the applicant never had any misconduct issues. The Board will consider the applicant's service accomplishments and the quality of the applicant's service according to the DODI 1332.28.

9. BOARD DISCUSSION AND DETERMINATION:

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

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: PTSD (100% SC).

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found VA service connection for PTSD establishes it occurred and/or began during active military 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 the applicant has a BH condition, PTSD, which mitigates some of the misconduct. As there is an association between PTSD, self-medication with alcohol, avoidant behavior and insomnia, there is a nexus between this diagnosis and the offenses of being drunk on duty, violating a general order by possessing alcohol, failing to report, and falling asleep while on guard duty. PTSD does not, however, mitigate the offense of making a false official statement as it does not affect one's ability to tell right from wrong and act in accordance with the right.

(4) Does the condition or experience outweigh the discharge? **No.** However, the board voted upgrade based on the totality of circumstances: PTSD partially mitigates some of the applicant's misconduct (being drunk on duty, violating a general order by possessing alcohol, failing to report, and falling asleep while on guard duty). The medically unmitigated misconduct (making a false official statement) was outweighed by the applicant's in-service mitigating factor (combat) and post-service accomplishments.

b. Response to Contention(s):

(1) The applicant requests an upgrade to honorable along with a reentry (RE) code, separation program designator (SPD) code and a narrative reason change. The board considered this contention during proceedings and 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 voted not to change the current reentry (RE) code because it is consistent with the procedural and substantive requirements of the regulation.

(2) The applicant contends the applicant's misconduct was the result of combat related PTSD. The Board considered this contention during proceedings and voted to grant an upgrade due to PTSD partially mitigating the applicant's misconduct as outlined above in paragraph 9a (3-4).

(3) The applicant contends the applicant received counseling and non-judicial punishment for incidents relating to alcohol and minor issues resulting from an unknown PTSD condition. The applicant does not dispute the veracity of these incidents but was suffering from serious issues relating to combat deployment. The applicant had anxiety about death, ultimately spiraling out of control and began coping with alcohol. The board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's PTSD partially outweighing the applicant's misconduct of being drunk on duty, violating a general order by possessing alcohol, failing to report, and falling asleep while on guard duty and service mitigating factor (Combat) mitigated the applicant making a false official statement.

(4) The applicant contends the applicant was never diagnosed or treated for PTSD. Even though much of the misconduct involved alcohol, the applicant's command never referred the applicant to treatment nor was the applicant given the chance to rehabilitate. The Board considered this contention during proceedings and voted to grant an upgrade due to PTSD partially mitigating the applicant's misconduct as outlined above in paragraph 9a (3-4).

(5) The applicant contends prior to deploying, the applicant never had any misconduct issues. The Board considered this contention during proceedings and voted to grant an upgrade due to PTSD partially mitigating the applicant's misconduct as outlined above in paragraph 9a (3-4).

(6) The applicant contends the minor misconduct does not warrant a general discharge or a narrative reason of serious offense. The Board considered this contention during proceedings and voted to grant an upgrade due to PTSD partially mitigating the applicant's misconduct as outlined above in paragraph 9a (3-4).

c. The board determined that the discharge is inequitable based on the applicant's PTSD partially outweighed the accepted basis for separation offenses of being drunk on duty, violating a general order by possessing alcohol, failing to report, and falling asleep while on guard duty. The medically unmitigated misconduct of false official statement was outweighed by the applicant's in-service mitigating factor (combat) and post-service accomplishments. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable.

d. Rationale for Decision:

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210008412

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's PTSD partially mitigated the applicant's misconduct of being drunk on duty, violating a general order by possessing alcohol, failing to report, and falling asleep while on guard duty and the unmitigated misconduct of making a false official statement outweighed by the applicant's combat service and post-service accomplishments determine relief was warranted. Thus, the prior characterization is no longer appropriate.

(2) The Board voted to change the narrative reason to Misconduct (Minor Disciplinary Infractions) under the same pretexts.


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


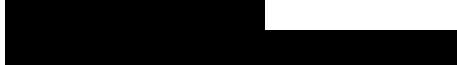
10. BOARD ACTION DIRECTED:

- 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:

2/6/2024

X 

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Legend:

AWOL – Absent Without Leave	GD – General Discharge	OAD – Ordered to Active Duty	SPD – Separation Program
AMHRR – Army Military Human Resource Record	HS – High School	OBH (I) – Other Behavioral Health (Issues)	Designator
BCD – Bad Conduct Discharge	HD – Honorable Discharge	OMPF – Official Military Personnel File	TBI – Traumatic Brain Injury
BH – Behavioral Health	IADT – Initial Active Duty Training	PTSD – Post-Traumatic Stress Disorder	UNC – Uncharacterized Discharge
CG – Company Grade Article 15	MP – Military Police	RE – Re-entry	UOTHC – Under Other Than Honorable Conditions
CID – Criminal Investigation Division	MST – Military Sexual Trauma	SCM – Summary Court Martial	VA – Department of Veterans Affairs
ELS – Entry Level Status	N/A – Not applicable	SPCM – Special Court Martial	
FG – Field Grade Article 15	NCO – Noncommissioned Officer		
	NIF – Not in File		
	NOS – Not Otherwise Specified		