

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 3 November 2020
- b. **Date Received:** 16 November 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 are requesting a change to the character of service because they feel like their Post-Traumatic Stress Disorder (PTSD) was not given proper consideration and they would like to ensure that all applicable benefits are afforded to them.

b. Board Type and Decision: In a records review conducted on 18 December 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, the circumstances surrounding the discharge (PTSD diagnoses), and post-service accomplishments. 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 voted not to change the reentry code of RE-3. Please see Section 9 of this document for more details regarding the Board's decision.

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: 21 March 2014

c. Separation Facts: The applicant's case separation file is void of several documents from the Army Military Human Resource Record (AMHRR) and only contains the Separation Authority memorandum.

(1) **Date of Notification of Intent to Separate:** NIF

(2) **Basis for Separation:** NIF

(3) **Recommended Characterization:** NIF

(4) **Legal Consultation Date:** NIF

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

(6) **Separation Decision Date / Characterization:** 4 March 2013 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: NIF / NIF

b. Age at Enlistment / Education / GT Score: NIF / HS Graduate / 96

c. Highest Grade Achieved / MOS / Total Service: E-4 / 91B1O, Wheeled Vehicle Mechanic / 6 years, 11 months, 11 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Korea, SWA / Afghanistan (15 February 2010 – 5 February 2011)

f. Awards and Decorations: ACM-2CS, ARCOM, AAM-2, NATOMDL, AGCM-2, NDSM, GWTSM, ASR, OSR-2

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) An Enlisted Record Brief dated 30 January 2014, reflects the applicant was advanced to the rank/grade of specialist on 10 July 2010, reduced in rank/grade to private first class/E-3 on 20 May 2013, and reduced to the rank/grade of private two/E-2 on 12 December 2013.

(2) The applicant's medical record, Psychology Clinic, for a Mental Status Evaluation for Administrative Separation, dated 3 February 2014, reflects –

(a) PTS/PTSD – the applicant endorsed symptoms consistent with a history of PTSD, but they emphatically stated the symptoms do not cause clinically significant impairment in their life.

(b) Behavioral History – the applicant denied any legal history before entering military service. Since May 2012, they have received numerous adverse counseling statement, two company grade and one field grade Uniform Code of Military Article 15's related to being late for formation on multiple occasions, being in the wrong uniform, offering inaccurate statements as to their whereabouts ("no less than 17 negative counseling statement during their 13 months with the 7th Dive Detachment"), and failure to pass the Army Physical Fitness Test. Due to an enduring pattern of negative counseling statements and an opportunity for a new start in a different unit, they received a rehabilitative transfer in December 2012 to their current unit.

(c) The psychologist states clinical interview indicated the applicant is not experiencing clinically significant impairment to either exposure to trauma while deployed or their self-report fall and exposure to Improvised Explosive Device blasts. Further psychological testing is not indicated at this time, based on absence of impairment in current functioning, confirmed by the applicant's report that they are not experiencing any problems in their relationship or functioning related to PTSD or mild Traumatic Brain Injury associated symptoms. The psychologist indicated no diagnoses for AXIS I (Psychiatric Conditions) or AXIS II (Personality & Intelligence Disorders).

(3) A memorandum, Headquarters, 8th Military Police Brigade, subject: Separation under Army Regulation 635-200, Chapter 14-12b, A Pattern of Misconduct, [Applicant], dated 3 March 2014, reflects Trial Counsel states the separation of the applicant is legally sufficient. The applicant's chain of command recommends a general (under honorable conditions).

(4) A memorandum, Headquarters, 8th Military Police Brigade, subject: Separation under Army Regulation 635-200, Chapter 14-12b, A Pattern of Misconduct, [Applicant], dated 4 March 2014, the separation authority reviewed the applicant's separation packet and after careful consideration of all matters, directed the applicant be separated from the Army prior to the expiration of current term of service and furnished a General (Under Honorable Conditions) Discharge Certificate.

(5) On 21 March 2014, the applicant was discharged accordingly, the DD Form 214(Certificate of Release or Discharge from Active Duty) provides the applicant completed 6 years, 11 months, and 11 days of net active service this period and they did not complete their first full term of service.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: excerpts of VA Medical Record reflecting the applicant's 50 percent disability rating for major depression disorder (MDD)

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- VA Medical Record excerpts, reflecting the applicant's diagnosis of Major Depression Disorder

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 40-501 (Standards of Medical Fitness), dated 4 August 2011, governed medical fitness standards for enlistment, induction, appointment (including officer procurement programs), retention, and separation (including retirement). Chapter 7 (Physical Profiling) prescribed a system for classifying individuals according to functional abilities.

(1) The functions have been considered under six factors designated "P-U-L-H-E-S":

- P – Physical Capacity or Stamina
- U – Upper Extremities
- L – Lower Extremities
- H – Hearing and Ears
- E – Eyes
- S – Psychiatric

(2) Four numerical designations are used to reflect different levels of functional capacity. The basic purpose of the physical profile serial is to provide an index to overall functional capacity. Therefore, the functional capacity of a particular organ or system of the body, rather than the defect per se, will be evaluated in determining the numerical designation 1, 2, 3, or 4.

- an individual having a numerical designation of "1" under all factors is considered to possess a high level of medical fitness
- a physical profile designator of "2" under any or all factors indicates that an individual possesses some medical condition or physical defect that may require some activity limitations
- a profile serial containing one or more numerical designators of "3" signifies that the individual has one or more medical conditions or physical defects that may require significant limitations – the individual should receive assignments commensurate with his or her physical capability for military duty
- a profile serial containing one or more numerical designators of "4" indicates that the individual has one or more medical conditions or physical defects of such severity that performance of military duty must be drastically limited

e. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), dated 6 September 2011, 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.

h. Title 38, U.S. Code, Sections 1110 and 1131, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered medically unfitting for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by the agency.

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. A review of the available evidence provides an administrative irregularity in the proper retention of records, specifically the applicant's AMHRR case files for approved separation only contains the separation authority memorandum. The AMHRR does not reflect the applicant's adverse documents leading to their discharge for a pattern of misconduct. The DD Form 214, unsigned by the applicant, provides the applicant was discharged with a character of service of General (Under Honorable Conditions) for pattern of misconduct. They completed 6 years, 11 months, and 11 days of net active service this period; however, their AMHRR doesn't contain their reenlistment document to determine their reenlistment contractual 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. The applicant's AMHRR does not provide documentation of a diagnosis of PTSD during the applicant's military service. The medical documents provided by the applicant reflects treatment for behavior health conditions; however, their Mental Status Evaluation prior to separation reflects no behavioral health diagnoses.

e. 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: PTSD; MDD. Anxiety Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes** The Board's Medical Advisor found the diagnoses of PTSD and Anxiety DO NOS were made while applicant was on active duty. VA has service connected the applicant for PTSD and MDD.

(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 two BH conditions, PTSD and MDD, which mitigate most of his misconduct. [Note-Anxiety DO NOS is subsumed under diagnosis of PTSD.] As there is an association between PTSD, MDD, avoidance behaviors, and difficulty with authority figures, there is a nexus between his PTSD and MDD diagnoses and his offenses of being late to formation multiple times, being in the wrong uniform and offering inaccurate statements as to his whereabouts. Neither PTSD nor MDD mitigates failing the APFT as neither condition affects one's ability to pass a physical fitness test.

(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 in service connected Adjustment Disorder (which is subsumed by the VA service connected PTSD) and the applicant's VA service connected PTSD and MDD outweighed the following portion of the basis of separation – being late to formation multiple times, being in the wrong uniform and offering inaccurate statements as to his whereabouts. However, the remaining portions of the basis of separation – failing an APFT - is not mitigated as none of the BH condition affect one's ability to pass a physical fitness test.

b. Response to Contention(s):

(1) The applicant contends they are requesting a change to their character of service because they feel like their Post-Traumatic Stress Disorder (PTSD) was not given proper consideration. The Board determined that this contention was valid and voted to upgrade the characterization of service due to PTSD mitigating the applicant's being late to formation multiple times, being in the wrong uniform and offering inaccurate statements as to his whereabouts.

(2) The applicant contends they would like to ensure that all applicable benefits are afforded to them. 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.

c. The Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, and the circumstances surrounding the discharge (PTSD diagnoses). 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 voted not to change the reentry code of RE-3, as it was deemed to be proper and equitable.

d. Rationale for Decision:

(1) The Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable based on the applicant's length and quality of service, to include combat service, and the circumstances surrounding the discharge (PTSD diagnoses).

(2) The Board voted to change the applicant's reason for discharge or accompanying SPD code to Misconduct (Minor Infractions) JKN under the same pretext..

(3) The RE code will not change.

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: None

e. Change Authority to: AR 635-200

Authenticating Official:

1/6/2025



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