

1. Applicant's Name: [REDACTED]

a. **Application Date:** 17 March 2021

b. **Date Received:** 22 March 2021

c. **Counsel:** None.

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:

a. **Applicant Requests:** The current characterization of service for the period under review is under other than honorable conditions. The applicant requests an upgrade to honorable.

b. **Applicant Contention(s)/Issue(s):** The applicant requests relief contending, in effect their discharge was improper due to PTSD. During their second deployment to Iraq, they were exposed to many things during war, including the unfortunate circumstance of taking the life of a child during battle. The deployment caused them to reach their mental and emotional limits, they returned from Iraq a broken soldier. Their downward spiral of depression began, they sought help from their chain of command only to be turned away, which left them to deal with the nightmares, depression and substance abuse alone. They suffered an error of injustice during their separation from the Army. Veterans suffering from PTSD should be given liberal consideration when petitioning for discharge relief.

c. **Board Type and Decision:** In a records review conducted on 02 July 2025, and by a 4-1 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), and post-service accomplishments outweighing the use of illegal drugs. Therefore, the Board voted to grant clemency 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, and the reentry code to RE-3. Please see **Board Discussion and Determination** section for more detail regarding the Board's decision. Board member names are available upon request.

3. DISCHARGE DETAILS:

a. **Reason / Authority / Codes / Characterization:** In Lieu of Trial by Court Martial / AR 635-200, Chapter 10 / KFS / RE- 4 / UOTHC

b. **Date of Discharge:** 16 June 2006

c. **Separation Facts:** The applicant's Army Military Human Resource Record (AMHRR) is void of the case separation file.

(1) **DD Form 458 (Charge Sheet):** NIF

(2) **Date Charges Preferred:** NIF

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

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

(5) **CDR / Intermediate CDR Recommended Characterization:** NIF

(6) Separation Approval Decision Date / Characterization: NIF

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 23 October 2002 / 3 years.
- b. **Date / Period of Reenlistment(s):** N/A
- c. **Age at Enlistment / Education / GT Score:** 18 / HS Graduate / 88
- d. **Highest Grade Achieved / MOS / Total Service:** E-3 / 19K10 M1 Armor Crewman / 3 years, 7 months, 24 days.
- e. **Prior Service / Characterizations:** N/A
- f. **Overseas Service / Combat Service:** None / Iraq; NIF, 17 January 2005 – 31 December 2005.
- g. **Awards and Decorations:** IRCM, GWTSM, ASR
- h. **Performance Ratings:** N/A
- i. **Disciplinary Action(s) / Evidentiary Record:**

(1) An Enlistment/ Reenlistment Document provides that the applicant enlisted in the Army Reserve at the pay grade of E-1 with a 3 year active duty obligation on 19 July 2002.

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

c. **Behavioral Health Condition(s):** The following documents have been provided to the ARBA Medical Advisor, if applicable. See **“Board Discussion and Determination”** for Medical Advisor Details.

(1) **Applicant provided:** 8 pages of Samaritan Village Comprehensive Treatment Plan, and 16 pages of Progress Notes from the Bronx Veterans Affairs Medical Center.

(2) **AMHRR provided:** NIF

2. APPLICANT-PROVIDED EVIDENCE: A DD Form 293 (Record Review) application, DD Form 214, ERB, a five page self-authored statement, AGCM, ARCOM, separation orders, Samaritan Village Comprehensive Treatment Plan, two Samaritan Village certificates, two Samaritan Village awards, Progress Notes from the Bronx Veterans Affairs Medical Center, Restoration of New York State Veterans Benefits Decision Letter, two letters of recommendation and their employment history and achievement documents which includes: Phlebotomy/EKG Technician Diploma, Patient Care Technician Diploma, Nursing Assistant Diploma, Caring and Compassion award, Certificate of Recognition, and a Certificate of Completion in support of their petition.

3. POST SERVICE ACCOMPLISHMENTS: The applicant works as a nursing assistant caring for fellow veterans and exceeding expectations at the Department of Veterans Affairs. Additionally, the applicant completed the Samaritan Village Veteran’s Program, received their Phlebotomy Technician Diploma, Patient Care Technician Diploma and their Nursing Assistant Diploma.

4. 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. Office, Secretary of Defense memorandum (Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder), 3 September 2014, directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

c. Office, Under Secretary of Defense memorandum (Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment), 25 August 2017 issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

d. Office, Under Secretary of Defense memorandum (Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations), 25 July 2018 issued guidance to Military DRBs and BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

(1) This guidance does not mandate relief but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, DRBs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

(2) Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

e. 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.

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.
- 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.

g. 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. It states:

(a) 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.

(b) 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.

(c) An under other-than-honorable-conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for

misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

(d) A Bad Conduct discharge will only be given to a Soldier pursuant to an approved sentence of general or special court-martial. Enlisted service members and officers with less than six years of service are eligible for a Bad Conduct Discharge. Behaviors such as drug abuse, assault, theft, insubordination, and other actions that violate military law may be punished with a BCD.

(e) A Dishonorable discharge is the most severe type of discharge and will be given to a Soldier pursuant only to an approved sentence of general or special court-martial. The appellate review must be completed and affirmed sentence ordered duly executed. Behaviors such as fraud, desertion, treason, espionage, sexual Assault, and murder and other actions may be punished with a dishonorable discharge.

(2) Chapter 10, Discharge in Lieu of Trial by Court Martial is applicable to members who had committed an offense or offenses for which the authorized punishment included a bad conduct, or dishonorable discharge could submit a request for discharge for the good of the service. The request could be submitted at any time after the charges had been preferred. Although an honorable or general discharge was authorized, an under other than honorable conditions discharge was normally considered appropriate, unless the record was so meritorious it would warrant an honorable.

(a) After receiving legal counseling, the soldier may elect to submit a request for discharge in lieu of trial by court-martial. The soldier will sign a written request, certifying that they have been counseled, understands their rights, and may receive a discharge under other than honorable conditions.

(b) The following documents will accompany the request for discharge:

- A copy of a Charge Sheet (DD Form 458)
- Report of medical examination and mental status evaluation, if conducted
- A complete copy of all reports of investigation
- Any statement, documents, or other matter considered by the commanding officer in making his/her recommendation, including any information presented for consideration by the soldier or consulting counsel.
- A statement of any reasonable ground for belief that the soldier is, or was at the time of misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included.

(3) 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. If Secretarial Authority is granted normally correct the record to show the following:

- Separation Authority: Army Regulation 635-200, Chapter 15
- Separation Code: JFF

- Reenlistment Code: RE1
- Narrative Reason for Separation: Secretarial Plenary Authority
- Character of Service: Honorable

(4) 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 "KFS" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 10, In Lieu Trial by Court-Martial.

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

a. The applicant requests an upgrade to Honorable. A review of the record provides administrative irregularity in the proper retention of records, specifically the AMHRR is void the applicant's complete separation packet, the charge sheet and the applicant's voluntary discharge request and the approval. Due to the lack of evidence, we are unable to provide all the specific facts and circumstances surrounding the applicant's court martial proceedings and their voluntary discharge request for separation.

b. A review of the available evidence provides the applicant enlisted in the Army at the age of 18, they advanced to rank of Private First Class and deployed to Iraq. The applicant's deployment dates are void from their AMHRR however the ARCOM medal submitted by the applicant indicates they deployed to Iraq from 17 January 2005 – 31 December 2005. Based on that evidence the applicant was separated from the Army 5 months and 17 days after they returned from Iraq. A DD Form 214 indicates they were separated under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial, with an Under Other than Honorable Conditions characterization of service on 16 June 2006.

c. Army Regulation 635-200 states Chapter 10 is a voluntary discharge request in-lieu of trial by court-martial. A discharge under other than honorable conditions normally is appropriate for a soldier who is discharge in lieu of trial by court-martial. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record during the current enlistment. For Soldiers who have completed entry-level status, characterization of service as honorable is not authorized unless the soldier's record is otherwise so meritorious that any other characterization clearly would be improper.

d. 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.

6. 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: Adjustment Disorder, Cocaine Abuse, and PTSD.

(2) Did the condition exist, or experience occur during military service? **Yes.**
Adjustment Disorder, Cocaine Abuse, and trauma symptoms.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.**
The Board's Medical Advisor applied liberal consideration and opined that if drug use is accepted as the basis for separation, then the trauma occurring prior to the drug use and nexus between trauma and substance use mitigates the discharge.

(4) Does the condition or experience outweigh the discharge? **Yes.** Based on liberally considering all the evidence before the Board, the ADRB determined that the condition or experience outweighed the basis of separation.

b. Prior Decisions Cited: None.

c. Response to Contention(s): The applicant contends that they suffered an error of injustice during their separation from the Army. Veterans suffering from PTSD should be given liberal consideration when petitioning for discharge relief.

The Board liberally considered this contention and determined that it was valid due to the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal drug use. Therefore, a discharge upgrade is warranted.

d. The Board granted clemency based on the applicant's Post Traumatic Stress Disorder that outweighed the applicant's use of illegal drugs, basis of separation. The applicant's trauma occurred prior to the drug use and there is a nexus between trauma and substance use, which mitigates the applicant's misconduct. Therefore, the Board voted to grant clemency in the form of an upgrade to the characterization of service to Honorable and directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), and the separation code to JKN. The Board voted to change the RE-Code to RE-3 because the RE-3 enables the applicant to re-enlist if a waiver is granted. One Board member voted to upgrade to General (Under Honorable Conditions) and no change to narrative reason and no change to RE-Code because the applicant elected separation in lieu of trial by court martial, and the chain of command separated the applicant with an Under Other Than Honorable Conditions discharge. The Board member believed the more appropriate upgrade is a General (Under Honorable Conditions) discharge.

e. Rationale for Decision:

(1) Published Department of Defense guidance indicates the guidance is not intended to interfere or impede on the Board's statutory independence. The Board determines the relative weight of the action that was the basis for the discharge and whether it supports relief or not. In reaching its determination, the Board considers the applicant's petition, available records and any supporting documents included with the petition.

(2) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Post Traumatic Stress Disorder outweighed the applicant's misconduct of illegal drug use. Thus, the prior characterization is no longer appropriate.

(3) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same rationale, 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

AR20210010841

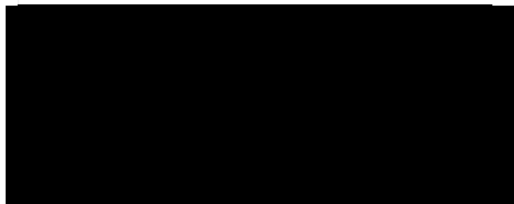
(4) The Board voted to change the RE code 4 to RE-3.

7. 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: RE-3
- e. Change Authority to: AR 635-200

Authenticating Official:

7/17/2025



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
FTR – Failure to Report

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