

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 25 January 2021
- b. **Date Received:** 23 February 2021
- 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, separation code change, reentry code change and a narrative reason change.

The applicant states in effect, their discharge was improper due to the lack of evidence as well as numerous instances of failing to follow regulations regarding their chapter process, as stated in a memorandum from their Trial Defense lawyer. Additionally, they were targeted based off of their sexual preference, a violation of E.O (Equal Opportunity).

b. Board Type and Decision: In a records review conducted on 21 February 2025, and by a 4-1 vote, the Board determined the discharge is inequitable based on the applicant's circumstances surrounding the discharge (PTSD diagnosis). 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 **Board Discussion and Determination** section for more detail regarding the Board's decision.*

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Pattern of Misconduct / AR 635-200 / JKA / RE-3 / Under Honorable Conditions (General)

b. Date of Discharge: 12 February 2018

c. Separation Facts: AMHRR

(1) Date of Notification of Intent to Separate: On or around 8 December 2017

(2) Basis for Separation: The applicant was informed of the following reasons:

- On 28 October 2016 they left their appointed place of duty.
- On 12 December 2017, they admitted to their chain of command that they were having an inappropriate relationship with a person that was not their spouse.
- On 13 November 2017 they failed to go to their appointed place of duty.

(3) Recommended Characterization: General, under honorable conditions.

(4) Legal Consultation Date: NIF

(5) **Administrative Separation Board:** N/A

(6) **Separation Decision Date / Characterization:** 20 January 2018 / GD

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 1 September 2015 / 4 years.

b. **Age at Enlistment / Education / GT Score:** 21 / High School Graduate / 124

c. **Highest Grade Achieved / MOS / Total Service:** E-4 (Specialist) / 68W1P Health Care Specialist / 2 years, 5 months, 12 days.

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

e. **Overseas Service / Combat Service:** None.

f. **Awards and Decorations:** NDSM, GWTSM, ASR

g. **Performance Ratings:** N/A

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

(1) A Developmental Counseling Form dated 12 December 2016 indicates that the applicant was counseled for leaving their appointed place of duty. They arrived at morning formation and left shortly after on 28 October 2016; missing physical training.

(2) Four Sworn Statement documents indicates that the applicant informed their leadership that they were in a relationship with someone other than their spouse on 12 September 2017.

(3) A Findings and Recommendation of Investigating Officer Concerning Inappropriate Relationship memorandum dated 14 September 2017 indicates that the applicant had an inappropriate relationship with a civilian in Florida while currently married to another service member in the military.

(4) A Developmental Counseling Form dated 14 November 2017 indicates that the applicant was counseled for missing their ASAP appointment on 13 November 2017. The applicant notified their squad leader that they missed the appointment.

(5) On or around 8 December 2017 the applicant's immediate commander notified them of their intent to separate them for a Pattern of Misconduct. The commander recommended a General (under honorable conditions) characterization of service. The applicant acknowledged the commander's notification and basis for separation.

(6) An Email dated 14 December 2017 indicates that the trial defense attorney returned the applicant's separation packet due to legal insufficiency. There was insufficient evidence to support the allegation that the applicant failed to go to their appointed place of duty on 13 November 2017.

(7) On 19 December 2017 the chain of command endorsed and concurred with the commander's discharge recommendation. On 20 January 2018 the appropriate authority

approved the separation and directed a General, under honorable conditions characterization of service.

(8) A Certificate Of Release Or Discharge From Active Duty document provides the applicant was discharged on 12 February 2018, they completed 2 years, 5 months, and 12 days of their contractual obligation.

i. Lost Time / Mode of Return: None.

j. Behavioral Health Condition(s): Other mental health.

(1) Applicant provided: None.

(2) AMHRR Listed: Other mental health.

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293 (Record Review) application, DD Form 214, ERB, timeline index worksheet, two page self-authored statement, an Improper separation Memorandum dated 7 February 2018, separation packet, documents within their AMHRR, a certificate, separation orders and five letters of recommendation that highlights the applicant's work ethic and performance as a soldier.

6. POST SERVICE ACCOMPLISHMENTS: The applicant purchased a home, they are employed and continued their education at Daytona State College. Their intent is to pursue a Bachelor of Science degree at the University of Central Florida.

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 provides the authorized types of characterization of service or description of separation.

(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) 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.

(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. 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. A soldier subject to this discharge under this regulation will be considered and processed for discharge even though he/she has filed an appeal or has stated his/her intention to do so. 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.

(5) 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 "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.

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.

8. SUMMARY OF FACT(S): 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, separation code change, reentry code change and a narrative reason change. The applicant's DD Form 214 indicates the applicant received a General (under honorable conditions) characterization of service, rather than an under other than honorable conditions (UOTHC) discharge, which is normally considered appropriate for a soldier discharged under Chapter 14 for misconduct.

b. Based on the available evidence the applicant enlisted in the army at the age of 21. The applicant's AMHRR consists of Developmental Counseling forms that shows that they left their appointed place of duty (PT) and they failed to go to their appointed place of duty (medical appointment). Additionally, the applicant admitted to their chain of command that they were in another relationship while married to another service member.

c. The applicant was notified of the Intent to separate them, they consulted with counsel and the appropriate authority approved their separation. A DD Form 214 authenticated by the applicant's signature shows that they were discharged under the provisions of AR 635-200, CH 14-12c, by reason of pattern of misconduct with a general an under honorable conditions characterization of service on 12 February 2018.

d. The applicant contends their discharge was improper due to a lack of evidence and their COC failure to follow regulations. Additionally, the applicant contends once their First Sergeant learned that they were bisexual they became prejudice.

e. Chapter 14 establishes policy and prescribes procedures for members being separated 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.

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 (70%SC).

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found that VA service connection for PTSD establishes nexus with 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 his misconduct. As there is an association between PTSD and self-medication with alcohol, there is a nexus between his diagnosis of PTSD and his alcohol rehabilitation failure. PTSD does not mitigate engaging in an inappropriate relationship as it does not affect one's ability to distinguish right from wrong and act in accordance with the right.

(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 outweighed the listed basis for separation for the aforementioned reasons.

b. Prior Decisions Cited: None.

c. Response to Contention(s): No contentions presented.

d. The Board determined: the discharge is inequitable based on the applicant's circumstances surrounding the discharge (PTSD diagnosis). 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) The Board considered the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation. The Board found sufficient evidence of in-service mitigating factors (Length) and concurred with the conclusion of the medical advising official that the applicant has a BH condition, PTSD, which mitigates some of his misconduct. As there is an association between PTSD and self-medication with alcohol, there is a nexus between his diagnosis of PTSD and his alcohol rehabilitation failure. PTSD does not mitigate engaging in an inappropriate relationship as it does not affect one's ability to distinguish right from wrong and act in accordance with the right. However, the Board voted to mitigate the additional misconduct. Based on a preponderance of evidence, the Board, with a 4-1 vote determined that the character of service the applicant received upon separation was inequitable and warranted an upgrade.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions). The SPD code associated with the new reason for discharge is JKN.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210010992

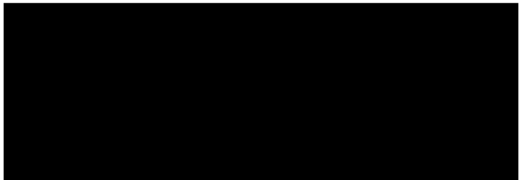
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. **Issue a New DD-214:** 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

Authenticating Official:

10/24/2025



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