

**1. Applicant's Name:** [REDACTED]

- a. **Application Date:** 20 March 2021
- b. **Date Received:** 1 April 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.

b. The applicant seeks relief stating the applicant made a terrible mistake on 4 August 2018 when the applicant decided to drink and drive. Since that night, the applicant has attended every substance abuse class that the Army provided and applies what was learned to everyday life, is a strong advocate for not driving while impaired, and has been practicing sober living. The applicant has learned to deal with their anxiety and depression in healthier ways than drinking alcohol. Unfortunately, the applicant was separated from the U.S. Army on 14 February 2019, which was less than a month before the applicant's contract was set to expire. The applicant would like the opportunity to further their career in the U.S. Army and strive for a leadership position and be given an opportunity to further their education using the G.I. Bill.

c. **Board Type and Decision:** In a records review conducted on 31 July 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the circumstances surrounding the discharge (Anxiety Disorder, and Alcohol Abuse diagnoses). Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed the separation authority to AR 635-200, paragraph 14- 12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN. The Board determined the reentry code is proper and equitable and voted not to change it.

*Please see Section 9 of this document for more detail regarding the Board's decision.*

*(Board member names available upon request)*

**3. DISCHARGE DETAILS:**

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

b. **Date of Discharge:** 14 February 2019

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 4 December 2018

(2) **Basis for Separation:** The applicant was informed of the following reasons: On 4 August 2018, the applicant operated a motor vehicle in Fayetteville, NC, with a blood alcohol content (BAC) of .15.

**(3) Recommended Characterization:** Honorable

**(4) Legal Consultation Date:** 10 December 2018

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

**(6) Separation Decision Date / Characterization:** 15 January 2019 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 10 October 2015 / 3 years and 21 weeks

**b. Age at Enlistment / Education / GT Score:** 22 / High School Graduate / 97

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 13M10, Multiple Launch Rocket System / HIMARS Crewmember / 3 years, 3 months, and 26 days

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

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

**f. Awards and Decorations:** AAM, NDSM, GWTOSM, KDSM, ASR

**g. Performance Ratings:** NA

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

**(1)** The applicant was provided three developmental counseling forms for the months of December 2016, November 2017, and January 2018, showing the applicant performed to standard.

**(2)** Serious Incident Report, 6 August 2018, states on 4 August 2018 the applicant was drinking alcoholic beverages at a friend's house at an off post residence and decided to drive the friend to the store down the road. The applicant was apprehended by the Fayetteville, NC Police Department for driving while impaired and failure to maintain lane control.

**(3)** Developmental Counseling Form, 8 August 2018, shows the applicant was counseled for driving under the influence of alcohol. On this same date, the applicant was flagged for adverse action (AA), effective 6 August 2018.

**(4)** The applicant provided a Prime for Life certificate, 30 August 2018, showing the applicant completed the Army Substance Abuse Program.

**(5)** On 23 October 2018:

**(a)** The applicant was counseled for initiation of a flag for administrative separation from the Army under the provisions of AR 635-200, chapter 14-12c, commission of a serious offense.

**(b)** Flagged for elimination - field initiated (BA), effective 23 October 2018.

(c) Alpha Battery, 3rd Battalion, 27th Field Artillery Regiment (HIMARS), memorandum for record, subject; Letter of Intent, 23 October 2018, states the applicant was informed and counseled of the company commander's intent to separate the applicant under the provisions of AR-635-200, chapter 14-12c, commission of a serious offense.

(6) The applicant provided:

(a) The applicant's memorandum that was addressed to the company commander, subject: Request for Retention on Active Duty and Characterization of Service, 12 December 2018, the applicant requested to be granted retention or an honorable discharge from the U.S. Army. The applicant asked that their entire military record, including past assignments, awards, and character statements be considered.

(b) The applicant provided six character letters that states the applicant always stood out as the very best of the best of Field Artilleryman. The applicant is a talented and gifted Soldier for all to emulate. The applicant has a high level of character and is one of the most humbled Soldiers that always shared life experiences with other peers and subordinates alike so that they too could learn from the applicant's mistakes. Of greater significance, what set the applicant apart from their peers was the applicant's maturity and selfless service toward accomplishing any mission or assigned task. The applicant excelled in every Soldiering domain to include physical fitness, knowledge, and military customs and courtesies, and made it a point to always embody the Warrior Ethos.

(c) On 4 December 2018, the applicant's company commander initiated action to separate the applicant for operating a motor vehicle in Fayetteville, NC with a BAC of .15 on 4 August 2018. The company commander recommended an honorable characterization of service.

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

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

(1) **Applicant provided:**

(a) VA Rating Decision, 20 June 2019, showing the applicant was rated 50 percent disabled anxiety disorder unspecified, with major depressive disorder effective 15 February 2019.

(b) Substance Abuse Evaluation, 10 November 2019, showing the applicant was diagnosed with alcohol use disorder, mild in sustained remission.

(2) **AMHRR Listed:** Report of Mental Status Evaluation, 1 November 2015, shows the applicant met medical retention requirements and was cleared for administrative action. The applicant was diagnosed with alcohol abuse.

*The ARBA's medical advisor reviewed DoD and VA medical records and not solely those documents listed in 4j(1) and (2) above.*

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293; DD Form 214; self-authored letter; biography; DD Form 4; partial case separation packet; Prime for Life Certificate; copies of military personnel records; enlisted record brief; VA Rating Decision; VA Benefits Letter; and Substance Abuse Evaluation.

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with the application.

**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), 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 (Active Duty Enlisted Administrative Separations), provides the basic authority for the separation of enlisted personnel.

**(1)** Paragraph 3-5c, provides the reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior other than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization.

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

**(7)** Chapter 15 provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memoranda. Secretarial separation authority is normally exercised on a case-by-case basis.

e. Army Regulation 635-5-1 (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 waivable and nonwaivable 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 waivable. Eligibility: Ineligible unless a waiver is granted.

(3) RE-4 Applies to: Person separated from last period of service with a nonwaivable 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. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's DD Form 214 shows the applicant served 3 years, 3 months, and 26 days of their 3 years and 21 week contractual agreement. During the applicant's service, the applicant served 1 year and 10 days of foreign service in Korea. On 4 August 2018, the applicant operated a motor vehicle in Fayetteville, NC, with a BAC of .15. The applicant's DD Form 214 also shows the applicant was discharged on 14 February 2018 under the provisions of AR 635-200, Chapter 14, paragraph 14-12c, by reason of Misconduct (Serious Offense), with a characterization of service of general (under honorable conditions).

c. The applicant would like the opportunity to further their career in the U.S. Army and strive for a leadership position and be given an opportunity to further their education using the G.I. Bill.

(1) Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. Based on Army Regulation 601-210, the applicant was appropriately assigned an RE code of "3." There is no basis upon which to grant a change to the reason or the RE code. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of RE codes if appropriate.

(2) Eligibility for veteran's benefits to include educational benefits under the Post-9/11 or Montgomery GI Bill does 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.

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.

#### 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: the applicant was diagnosed in-service with an Adjustment Disorder and Alcohol Abuse. The applicant is service connected for Anxiety.

(2) Did the condition exist or experience occur during military service? **Yes.** The applicant was diagnosed in-service with an Adjustment Disorder and Alcohol Abuse.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the service-connected condition is mitigating as symptoms originated prior to the DUI and can lead to self-medication.

(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 – DWI.

b. Prior Decisions Cited:

c. Response to Contention(s): None

d. The Board determined the discharge is inequitable based on the circumstances surrounding the discharge (Anxiety Disorder, and Alcohol Abuse diagnoses). 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 carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for

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separation. The Board concurred with the conclusion of the medical advising official that the applicant's medical diagnosis mitigates the basis of separation and warrants a change to the character and narrative reason for separation. Based on a preponderance of evidence, the Board determined that the reason for the applicant's separation was inequitable. The Board decided to retain the RE3 based on the medical diagnosis.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

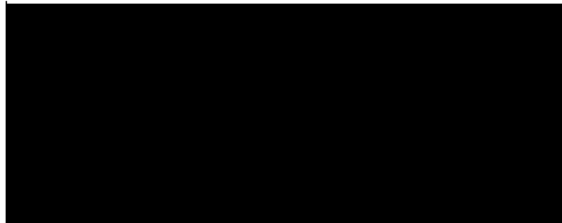
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**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:**

8/8/2024



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