

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

- a. **Application Date:** 22 August 2021
- b. **Date Received:** 7 September 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 honorable.

The applicant seeks relief contending, in effect, the actions which led to the discharge were linked to post-traumatic stress disorder (PTSD) from four deployments. The applicant has obtained an associate degree and pursuing a baccalaureate degree. The applicant is married and has started a veteran owned company. The applicant had honorable service and earned multiple awards.

b. **Board Type and Decision:** In a records review conducted on 28 August 2024, and by a 5-0 vote, the board determined the discharge is inequitable based on the applicant's PTSD mitigating the applicant's basis of separation – pattern of misconduct (multiple DUI's). 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 and the narrative reason for separation to Misconduct (Minor Infractions)/JKN. *Please see Section 9 of this document for more detail regarding the Board's decision.*

*(Board member names available upon request)*

**3. DISCHARGE DETAILS:**

a. **Reason / Authority / Codes / Characterization:** Pattern of Misconduct / AR 635-200, Paragraph 14-12b / JKA / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 14 January 2011

**c. Separation Facts:**

- (1) **Date of Notification of Intent to Separate:** NIF
- (2) **Basis for Separation:** The applicant was informed of the following reasons: NIF
- (3) **Recommended Characterization:** NIF
- (4) **Legal Consultation Date:** NIF
- (5) **Administrative Separation Board:** NIF
- (6) **Separation Decision Date / Characterization:** NIF

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 17 October 2006 / 3 years (Applicant extended on 27 June 2009 for a period of 9 months)

**b. Age at Enlistment / Education / GT Score:** 27

**c. Highest Grade Achieved / MOS / Total Service:** E-6 / 18B3V, Special Forces Weapons Sergeant / 10 years, 2 months, 18 days

**d. Prior Service / Characterizations:** RA, 27 October 2000 – 26 June 2006 / HD

**e. Overseas Service / Combat Service:** SWA / Afghanistan (11 November 2001 – 28 May 2002), Iraq (24 January 2003 – 1 February 2004), (16 October 2007 – 1 June 2008), (15 January 2009 – 25 July 2009)

**f. Awards and Decorations:** ACM-CS, ICM-CS-2, BSM, ARCOM-2, AAM, VUA, AGCM-3, NDSM, GWOTSM, GWOTEM, NCOPDR-2, CIB

**g. Performance Ratings:** 1 November 2006 – 31 October 2007 / Among The Best  
1 November 2007 – 31 July 2008 / Marginal  
1 August 2008 – 31 July 2009 / Fully Capable  
1 August 2009 – 31 July 2010 / Marginal

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

(1) General Officer Memorandum of Reprimand (GOMOR), 1 October 2008, reflects the applicant was reprimanded for driving a motor vehicle on 3 July 2008 in the State of Tennessee with a blood alcohol content of .216.

(2) GOMOR, 18 May 2010, reflects the applicant was reprimanded for driving while drunk in Tennessee on 7 May 2010. The applicant was involved in vehicle rollover at the off ramp near the Exit 1. As the applicant was walking away from the accident, an officer arrived and could smell alcohol on the applicant. The applicant admitted to having several beers before attempting to drive home.

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

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

(1) **Applicant provided:** The applicant provides medical documents pertaining to the applicant mental health problems.

(2) **AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293, Personal statement, Letters of support-2, Post-Deployment Health Assessment, Medical Documents, News Articles, Photos

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant has obtained an associate degree and pursuing a baccalaureate degree. The applicant is married and has started a veteran owned company.

**7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):**

a. Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

b. Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

(1) Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

c. Army Regulation 15-180 (Army Discharge Review Board), dated 25 September 2019, sets forth the policies and procedures under which the Army Discharge Review Board is authorized to review the character, reason, and authority of any Servicemember discharged from active military service within 15 years of the Servicemember's date of discharge. Additionally, it prescribes actions and composition of the Army Discharge Review Board under Public Law 95-126; Section 1553, Title 10 United States Code; and Department of Defense Directive 1332.41 and Instruction 1332.28.

d. Army Regulation 635-200 provides the basic authority for the separation of enlisted personnel.

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(2) Paragraph 3-7a states an Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

(3) Paragraph 3-7b states a General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(4) Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

(5) Paragraph 14-3 prescribes a discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

(6) Paragraph 14-12b, addresses a pattern of misconduct consisting of either discreditable involvement with civilian 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 Uniform Code of Military Justice, Army Regulations, the civilian law and time-honored customs and traditions of the Army.

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

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

The applicant's service AMHRR is void of the specific facts and circumstances concerning the events which led to his discharge from the Army. The applicant's record does contain a DD Form 214 (Certificate of Release or Discharge from Active Duty), which indicates the applicant was discharged under the provisions of AR 635-200, paragraph 14-12b, by reason of Pattern of Misconduct, with a characterization of service of General (Under Honorable Conditions).

The applicant contends the actions which led to the discharge were linked to PTSD from four deployments. The applicant's AMHRR is void of PTSD diagnosis. The applicant provides medical documents pertaining to the applicant mental health problems.

The states the applicant had honorable service and earned multiple awards. The Board will consider the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant states the applicant has obtained an associate degree and pursuing a baccalaureate degree. The applicant is married and has started a veteran owned company. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

#### **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 diagnosis: PTSD.

(2) Did the condition exist, or experience occur during military service? **Yes.** Combat serving as the basis for PTSD.

(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 PTSD, combat occurring before the misconduct, and nexus between trauma and substance abuse, the substance related misconduct is mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the board determined that the applicant's PTSD outweighed the basis for separation – pattern of misconduct (multiple DUI's) – for the aforementioned reasons.

b. Response to Contention(s): The applicant contends the actions which led to the discharge were linked to PTSD from four deployments. The board found validity in this contention and voted to upgrade the applicant's discharge based on the applicant's PTSD outweighing the applicant's basis for separation - pattern of misconduct (multiple DUI's).

c. The board determined the discharge is inequitable based on the applicant's PTSD outweighing the basis for separation and warrants a change to the character and narrative reason for separation.

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**AR20210014272**

**d. Rationale for Decision:**

(1) Based on a preponderance of evidence, the board determined that the reason for the applicant's separation and the character of service the applicant received upon separation were inequitable. The board applied liberal consideration to the evidence, including the Board Medical Advisor opine, and determined the applicant's PTSD outweighed the basis for separation – pattern of misconduct (multiple DUI's). Thus, the prior characterization is no longer appropriate.

(2) 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.

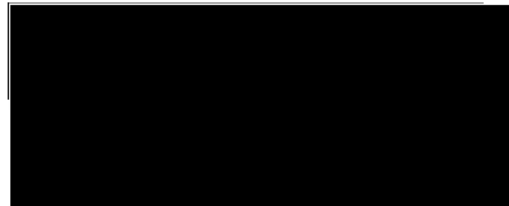
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**10. BOARD ACTION DIRECTED:**

- a. Issue a New DD-214 / Separation Order: Yes**
- b. Change Characterization to: Honorable**
- c. Change Reason / SPD code to: Misconduct (Minor Infractions)/JKN**
- d. Change RE Code to: No Change**
- e. Change Authority to: AR 635-200, paragraph 14-12a**

**Authenticating Official:**

9/12/2024



**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

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