

**1. Applicant's Name:** [REDACTED]**a. Application Date:** 7 June 2021**b. Date Received:** 15 July 2021**c. Counsel:** [REDACTED]**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**

**a. Applicant's Requests and Issues:** The current characterization of service for the period under review is under other than honorable conditions. The applicant requests, through counsel, an upgrade to general (under honorable conditions) along with a reentry (RE) code, separation program designator (SPD) code, and a narrative reason change.

The applicant's counsel seeks relief contending, in effect, the applicant's discharge was inequitable because post-traumatic stress disorder (PTSD) was a major mitigating factor in the misconduct. The applicant developed PTSD after a deployment and was diagnosed with depression and contemplated suicide. The applicant began to medicate with alcohol and was hospitalized multiple times. The applicant became overwhelmed and went absent without leave and was discharged. The applicant's discharge was improper because the administrative board did not have access to the applicant's relevant mental health records prior to recommending the discharge. The applicant's service meets the requirements for an honorable or general discharge. The applicant received numerous awards attesting to good service and served over six years. The applicant has a service-connected disability rating with the Department of Veteran Affairs.

**b. Board Type and Decision:** In a records review conducted on 7 August 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the circumstances surrounding the discharge (Major Depressive Disorder and Post Traumatic Stress Disorder diagnoses). Therefore, the Board voted to grant relief 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 determined the RE Code was 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 / JKQ / RE-3 / Under Other Than Honorable Conditions

**b. Date of Discharge:** 9 February 2012**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 12 September 2011

**(2) Basis for Separation:** The applicant was informed of the following reasons: The applicant was absent without leave from on or about 20 March 2011 to on or about 20 June 2011.

**(3) Recommended Characterization:** Under Other Than Honorable Conditions

**(4) Legal Consultation Date:** On 13 September 2011, the applicant waived consideration of the case by an administrative separation board contingent on receiving a characterization of service or description of separation no less favorable than general (under honorable conditions). On 30 September 2011, the applicant's request for a general (under honorable conditions) discharge in exchange for waving an administrative separation board was disapproved.

**(5) Administrative Separation Board:** On 22 November 2011, an administrative separation board found the allegation of absent without leave from on or about 20 March 2011 to 17 June 2011, was supported by a preponderance of the evidence. The board recommended the applicant be separated from the U.S. Army with an under other than honorable conditions characterization of service.

**(6) Separation Decision Date / Characterization:** 19 January 2012 / Under Other Than Honorable Conditions

#### 4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 27 June 2007 / NIF
- b. **Age at Enlistment / Education / GT Score:** 22 / GED /128
- c. **Highest Grade Achieved / MOS / Total Service:** E-5 / 31B, Military Police / 8 years, 6 months, 2 days
- d. **Prior Service / Characterizations:** USAR, 7 April 2003 – 20 September 2005 / NIF  
RA, 19 June 2003 – 24 October 2003 / HD  
(Concurrent Service) IADT  
RA, 21 September 2005 – 26 June 2007 / HD
- e. **Overseas Service / Combat Service:** SWA / Iraq (4 February 2007 – 10 April 2008)
- f. **Awards and Decorations:** ICM-CS-3, ARCOM-2, AAM, AGCM, NDSM, GWOTSM, NCOPDR, ASR, OSR-2, CAB
- g. **Performance Ratings:** 1 July 2008 – 30 June 2009 / Fully Capable  
1 July 2009 – 30 June 2010 / Fully Capable  
1 July 2010 – 30 November 2010 / Fully Capable  
1 December 2010 – 18 March 2011 / Marginal
- h. **Disciplinary Action(s) / Evidentiary Record:**
  - a. DD Form 458 (charge Sheet), 7 July 2011, reflects on or about 20 March 2011, without authority and with intent to remain away there from permanently, the applicant absent himself from his unit and did remain so absent in desertion until he was apprehended on or about 17 June 2011.

b. DD Form 2329 (Record of Trial By Summary Court-Martial), 17 August 2011, reflects, the applicant pled not guilty and was found to be guilty of one count of AWOL (more than 30 days). The punishment consisted of reduction to specialist/E-4; forfeiture of \$1949 pay; and restriction to the limits of Fort Bragg for 60 days.

i. **Lost Time / Mode of Return:** AWOL X 90 days (20 March 2011 – 20 June 2011) / Apprehended

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

(1) **Applicant provided:** The applicant's counsel provides medical records pertaining to the applicant's mental health issues and treatment.

(2) **AMHRR Listed:** Mental Status Evaluation (MSE), 29 July 2011, reflects the applicant could understand and participate in administrative proceedings and could appreciate the difference between right and wrong. The applicant had a negative screen for PTSD and mild traumatic brain injury (TBI). The applicant was diagnosed with occupational problem.

5. **APPLICANT-PROVIDED EVIDENCE:** DD Form 293, Counsel's Brief with 48 exhibits (246 total pages)

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), 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) Paragraph 3-7c states 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.

(5) 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.

(6) 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.

(7) 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.

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 "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 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.

**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 general (under honorable conditions) along with a reentry (RE) code, separation program designator (SPD) code, and a narrative reason change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant's counsel requests the applicant's narrative reason for the discharge be changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12c, AR 635-200 with an under other than honorable conditions discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Misconduct (Serious Offense)," and the separation code is "JKQ." Army Regulation 635-8, Separation Processing and Documents, governs the preparation of the DD Form 214 and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be

listed in tables 2-2 or 2-2 of AR 635-5-1, Separation Program Designator (SPD) Codes. The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant's counsel requests the applicant's SPD and RE codes be changed. Separation codes are three-character alphabetic combinations that identify reasons for, and types of, separation from active duty. The primary purpose of SPD codes is to provide statistical accounting of reasons for separation. They are intended exclusively for the internal use of DoD and the Military Services to assist in the collection and analysis of separation data. SPD Codes are controlled by OSD and then implemented in Army policy AR 635-5-1 to track types of separations the SPD code specified by Army Regulations for a discharge under Chapter 14-12c, is "JKQ." Army Regulation 635-5, Separation Documents, governs the preparation of the DD Form 214 and dictates the entry of the separation code entered in block 26 of the form, will be as listed in tables 2-2 or 2-3 of AR 635-5-1, Separation Program Designator (SPD) Codes. The regulation stipulates no deviation is authorized. There is no provision for any other SPD code to be entered under this regulation. 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.

The applicant's counsel contends the applicant's discharge was inequitable because PTSD was a major mitigating factor in the misconduct and the applicant developed PTSD after a deployment and was diagnosed with depression. The applicant's AMHRR contains no documentation of PTSD diagnosis. The AMHRR shows the applicant underwent a MSE on 29 July 2011, which reflects the applicant could understand and participate in administrative proceedings and could appreciate the difference between right and wrong. The applicant had a negative screen for PTSD and mild TBI) The applicant was diagnosed with occupational problem. The applicant's counsel provides medical records pertaining to the applicant's mental health issues and treatment.

The applicant's counsel contends the applicant began to medicate with alcohol and was hospitalized multiple times and contemplated suicide. The applicant became overwhelmed and went absent without leave and was discharged.

The applicant's counsel contends the applicant's discharge was improper because the administrative board did not have access to the applicant's relevant mental health records prior to recommending the discharge and the applicant also has a service-connected disability rating with the Department of Veteran Affairs.

The applicant's counsel contends the applicant served for over six years, receiving numerous awards attesting to good service and the applicant's service meets the requirements for an honorable or general discharge. The Board will consider the applicant service accomplishments and the quality of service according to the DODI 1332.28.

## **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: Major Depressive Disorder (MDD), Post Traumatic Stress Disorder (PTSD).

(2) Did the condition exist, or experience occur during military service? **Yes.** Major Depressive Disorder 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 given the nexus between trauma and avoidance, the basis is mitigated.

(4) Does the condition or experience outweigh the discharge? **N/A**

**b. Response to Contention(s):**

(1) The applicant's counsel contends the applicant's discharge was inequitable because PTSD was a major mitigating factor in the misconduct and the applicant developed PTSD after a deployment and was diagnosed with depression. The Board determined that this contention was valid and voted to upgrade the characterization of service to Honorable due to the diagnoses of Major Depressive Disorder (MDD) and Post Traumatic Stress Disorder (PTSD) mitigating the applicant's misconduct of Absent Without Leave.

(2) The applicant's counsel contends the applicant began to medicate with alcohol and was hospitalized multiple times and contemplated suicide. The applicant became overwhelmed and went absent without leave and was discharged. The Board considered this contention during proceedings and voted to upgrade the characterization of service to Honorable.

(3) The applicant's counsel contends the applicant's discharge was improper because the administrative board did not have access to the applicant's relevant mental health records prior to recommending the discharge and the applicant also has a service-connected disability rating with the Department of Veteran Affairs. The Board considered this contention during proceedings and voted to upgrade the characterization of service to Honorable.

(4) The applicant's counsel contends the applicant served for over six years, receiving numerous awards attesting to good service and the applicant's service meets the requirements for an honorable or general discharge. The Board considered this contention during proceedings, noted the applicant's length and quality of service to include combat service, and voted to upgrade the characterization of service to Honorable.

**c.** The Board determined the discharge is inequitable based on the circumstances surrounding the discharge (Major Depressive Disorder and Post Traumatic Stress Disorder). Therefore, the Board voted to grant relief in the form of an upgrade of 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 determined the RE Code was proper and equitable and voted not to change it.

**d. Rationale for Decision:**

(1) The Board voted to change the applicant's characterization of service. Based on a preponderance of evidence, the Board determined the reason for the applicant's separation was inequitable. The Board determined that the applicant's Behavioral Health diagnoses (Major Depressive Disorder and Post Traumatic Stress Disorder) mitigate the misconduct of Absent Without Leave.

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(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same reasons, 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:**

8/22/2024



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

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