

1. Applicant's Name: [REDACTED]

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

b. **Date Received:** 30 August 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 contending, in effect, the applicant's discharge should be upgraded due to the applicant's mental status at the time of discharge. The applicant was deployed to Iraq from October 2006 to October 2008, and was going through post-traumatic stress at that time from deployment to Iraq, and did not know or was aware at that time. The applicant even received a combat action badge. When coming back from deployment the applicant quickly began the process of a permanent change in station to Fort Bragg, NC from Fort Drum, NY. Quickly not long after arriving, the applicant developed patterns of misconduct reported by leaders. The platoon sergeant at that time suggested post-traumatic stress from the recent deployment, but everyone denied it including the applicant until later on after military service discovering the applicant did have post-traumatic stress stated by family, friends, and medical professionals. The applicant has had a 70 percent disability rating for PTSD with the VA since 2013. The applicant realizes that during the time after deployment at Fort Bragg the applicant was going through a PTSD and was not aware, and no one took it serious. The applicant suppose the applicant was not comfortable being around people and behaved a certain way. PTSD has affected the applicant's life and service while serving and currently today.

c. **Board Type and Decision:** In a records review conducted on 16 April 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, and the 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 Section 9 of this document for more detail regarding the Board's decision.

3. DISCHARGE DETAILS:

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

b. **Date of Discharge:** 18 June 2009

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 19 May 2009

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant disobeyed a lawful order on 3 November 2008, was derelict in duties on 17 October 2008, was disrespectful to a noncommissioned officer (NCO) on 26 January 2009, and failed to report on 19 January 2009.

(3) Recommended Characterization: General (Under Honorable Conditions)

(4) Legal Consultation Date: 19 May 2009

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 26 May 2009 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 16 April 2007 / 5 years

b. Age at Enlistment / Education / GT Score: 21 / High School Graduate / 95

c. Highest Grade Achieved / MOS / Total Service: E-4 / 88M10, Motor Transport Operator / 3 years, 8 months, and 8 days

d. Prior Service / Characterizations: RA, 11 October 2005 - 15 April 2007 / HD

e. Overseas Service / Combat Service: SWA / Iraq (16 August 2006 - 15 October 2007)

f. Awards and Decorations: NDSM, GWOTSM, ICM-CS, ASR, OSR, and CAB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) FG ROP under Article 15, UCMJ, 10 October 2008, for the below offenses:

(a) Willfully disobeyed a lawful order from a NCO, to not drive the applicant's car without the insurance being paid, on or about 3 November 2008; and

(b) Derelict in the performance of duties by willfully failing to pay the applicant's USAA insurance with the Army Emergency Relief loan on or about 17 October 2008.

(c) The punishment consisted of extra duty for 14 days.

(2) Five Developmental Counseling Forms, for loss of TA-50 items, driving without valid insurance, failure to pay auto deductible, failure to report, and disrespect to an NCO.

(3) Company Commander Memorandum For Record, subject: Letter of Intent, 11 February 2009, shows the applicant was being considered for an administrative separation under provisions of AR 635-200, Chapter 14-12b, Patterns of Misconduct.

(4) FG ROP under Article 15, UCMJ, 11 March 2009, for the below offenses:

(d) Disrespectful in language toward an NCO by saying, "Well, your all chaptering [applicant] anyway," or words to that effect, on or about 26 January 2009; and

(e) Failed to go at the time prescribed to the applicant's place of duty on or about 19 January 2009.

(f) The punishment consisted of a reduction from E-4 to E-1; forfeiture of \$699.00 pay per month for 2 months (suspended); and extra duty for 45 days.

(5) Report of Mental Status Evaluation, 10 April 2009, shows the applicant was cleared for any administrative actions deemed appropriate by the command. There was no evidence of an emotional or mental disorder of psychiatric significance that would warrant disposition through medical channels.

(6) On 6 May 2009, the applicant was counseled for recommendation for a chapter 14-12c (14-12b), Patterns of Misconduct and the applicant was flagged for involuntary separation/field initiated (BA), effective 6 May 2009.

(7) On 12 May 2009, the company commander recommended denial of a rehabilitative transfer because the applicant failed to correct the applicant's shortcomings in lieu of different squad leaders.

(8) On 19 May 2009, the company commander initiated action to separate the applicant under AR 635-200, chapter 14, paragraph 14-12b, Patterns of Misconduct.

(9) On the 19 May 2009, the brigade judge advocate found the separation legally sufficient.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) **Applicant provided:** VA documents in support of PTSD.

(2) **AMHRR Listed:** None

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

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293; two VA Summary of Benefits letters; VA Decision Rating; VA Benefits letter; social security card, driver's license, and birth certificate.

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. Title 10, U.S. Code, Sections 1177 (Members Diagnosed with or Reasonably Asserting Post-Traumatic Stress Disorder or Traumatic Brain Injury: Medical Examination Require Before Administrative Separation) states under regulations prescribed by the Secretary of Defense, the Secretary of a military department shall ensure that a member of the armed forces under the jurisdiction of the Secretary who has been deployed overseas in support of a contingency operations, or sexually assaulted, during the previous 24 months, and who is diagnosed by a physician, clinical psychologist, psychiatrist, licensed clinical social worker, or psychiatric advance practice registered nurse as experiencing PTSD or TBI or who otherwise reasonably alleges, based on the service of the member while deployed, or based on such sexual assault,

the influence of such a condition, receives a medical examination to evaluate a diagnosis of PTSD or TBI. A member shall not be administratively separated under conditions other than honorable, including an administrative separation in lieu of court-martial, until the results of the medical examination have been reviewed by appropriate authorities responsible for evaluating, reviewing, and approving the separation case, as determined by the Secretary concerned.

d. 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.

e. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), provides the basic authority for the separation of enlisted personnel.

(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) 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.

(4) 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.

(5) 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.

(6) 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.

f. 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 "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.

g. 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:

(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 waiverable. Eligibility: Ineligible unless a waiver is granted.

(3) 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. 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, 8 months, and 8 days during which the applicant served 1 year and 2 months in Iraq. The applicant received five counselings and two FG ROP under Article 15, UCMJ, for various misconduct. The applicant's DD Form 214 also shows the applicant was discharged on 18 June 2009 under the authority of AR 635-200, paragraph 14-12b, by reason of Patterns of Misconduct, with a characterization of service of general (under honorable conditions).

c. The applicant contends, in effect, the applicant's discharge should be upgraded due to the applicant's mental status at that time of discharge which the applicant was diagnosed after service with PTSD and has an 80 percent disability rating with the VA. The applicant provided VA documents for review.

d. The applicant contends to have received a combat action badge. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

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 VA service connection of 70% for PTSD establishes nexus with service.

(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 applicant has a mitigating BH condition, PTSD. As there is an association between PTSD, avoidance behaviors, problems with authority figures and difficulty with performance, there is a nexus between his diagnosis of PTSD and his offenses of failure to report, disobedience of a lawful order and dereliction of duty.

(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):

(1) The applicant contends, in effect, the applicant's discharge should be upgraded due to the applicant's mental status at that time of discharge which the applicant was diagnosed after service with PTSD and has an 80 percent disability rating with the VA. The Board considered this contention during proceedings and determined it was valid.

(2) The applicant contends to have received a combat action badge. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

d. The Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, and the 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) Based on a preponderance of evidence, the Board determined the reason for the applicant's separation was inequitable. The Board voted to change the applicant's characterization of service to Honorable. The Board determined the applicant's PTSD mitigated the applicant's misconduct of failure to report, disobedience of a lawful order and dereliction of duty.

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(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.

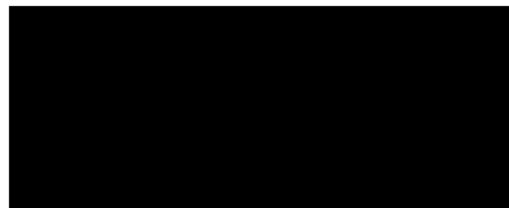
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: 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:

4/23/2025



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 ROP – Field Grade Record of
Proceedings under 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