

1. Applicant's Name: [REDACTED]

a. **Application Date:** June 25, 2021

b. **Date Received:** June 28, 2021

c. **Counsel:** N/A

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:

a. **Applicant Requests:** The current characterization of service for the period under review is General (Under Honorable Conditions). The applicant requests an upgrade to honorable.

b. **Applicant Contention(s)/Issue(s):** The applicant requests relief contending, in effect, they were going through a lot during their active duty service, they are currently 90 percent service-connected disabled, and divorced in 2017.

c. **Board Type and Decision:** In a records review conducted on 26 February 2026, and by a 2-1 vote, the Board voted to upgrade the applicant's discharge characterization 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 no upgrade was warranted for the reentry code as it was proper and equitable. Please see **Board Discussion and Determination** section for more detail regarding the Board's decision. Board member names are 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:** 6 August 2017

c. **Separation Facts:** The applicant's Army Military Human Resource Record (AMHRR) is void of the case separation file in its entirety. However, the following documents were found in their AMHRR as described below in 3c (1) through (3).

(1) **Date of Commander's Report:** 31 March 2017

(2) **Factual reason for action recommended:**

(a) On or about 13 September 2016, applicant used OXCOD (oxycodone)/OXMOR (oxymorphone), a schedule II controlled substance, which was not prescribed to him by a physician.

(b) On or about 4 November 2016, applicant was involved in a verbal altercation with their wife, R.A. at their shared resident. The applicant slapped R.A. multiple times and pushed her with both hands onto their infant son who was laying in the bed

(3) **Separation Decision Date / Characterization:** 10 April 2017 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment / Reenlistment Under Review: 14 January 2014 / 4 years and 21 weeks

b. Age at Enlistment / Education / GT Score: 24 / High School Graduate / 95

c. Highest Grade Achieved / MOS / Total Service: E4 / 42A10, Human Resources Specialist / 3 years, 6 months, 23 days

d. Overseas Service / Combat Service: Korea / None

e. Awards and Decorations: Army Achievement Medal, National Defense Service Medal, Global War on Terrorism Service Medal, Korea Defense Service Medal, Army Service Ribbon, Sharpshooter Marksmanship Badge w/Rifle Bar

f. Disciplinary Action(s) / Evidentiary Record: Record of Proceedings under Article 15, UCMJ, dated 10 February 2017, for on or about 9 September 2016 and on or about 13 September 2016, wrongfully use OXCOD (oxycodone), a schedule II controlled substance. He was reduced to Private First Class (E3); forfeiture of \$1,062.00 pay, suspended, to be automatically remitted if not vacated on or before 9 August 2017; extra duty for 45 days; restriction to the limits of company area, dining/medical facility, and place of worship for 45 days, suspended, to be automatically remitted if not vacated on or before 9 August 2017.

g. Lost Time / Mode of Return: None / NA

5. APPLICANT-PROVIDED EVIDENCE: None submitted with the application.

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. Office, Secretary of Defense memorandum (Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder), 3 September 2014, directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively

discharged UOTHC and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

c. Office, Under Secretary of Defense memorandum (Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment), 25 August 2017 issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

d. Office, Under Secretary of Defense memorandum (Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations), 25 July 2018 issued guidance to Military DRBs and BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

(1) This guidance does not mandate relief but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, DRBs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

(2) Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

e. 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.

f. Army Regulation 600-85 (The Army Substance Abuse Program), paragraph 10-12a defines the Limited Use Policy and states unless waived under the circumstances listed in paragraph 10-13d, Limited Use Policy prohibits the use by the government of protected evidence against a Soldier in actions under the UCMJ or on the issue of characterization of service in administrative proceedings. Additionally, the policy limits the characterization of discharge to "Honorable" if protected evidence is used. Protected evidence under this policy includes:

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:

- 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.

h. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), 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.

(a) 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.

(b) 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.

(c) 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.

(2) 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) Paragraph 14-2c, prescribes Commanders will not take action prescribed in this chapter instead of disciplinary action solely to spare an individual who may have committed serious misconduct from the harsher penalties that may be imposed under the UCMJ.

(b) 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.

i. 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).

8. SUMMARY OF FACT(S): Standard of Review. 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 Army Military Human Resource Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's AMHRR includes partial facts and circumstances concerning the events leading to the discharge from the Army. The applicant's AMHRR does include a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty), which was authenticated by the applicant's electronic signature. The applicant's DD Form 214 indicates the applicant was discharged 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 contends they were going through a lot during their active duty service, notably a divorce in 2017, and they made a mistake.

d. The applicant contends the VA awarded them a 90 percent service-connected disability for behavioral health issues.

e. Their characterization of service has slowed them down in civilian life, which is why they are requesting an upgrade.

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: Anxiety Disorder and personal history of TBI with severity mild.

es

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 100% service connected, including 50% for Chronic Adjustment Disorder and 50% for Migraine Headaches related to his TBI.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partial.** The Board's Medical Advisor applied liberal consideration and opined that there is evidence of partially mitigating BH conditions. The applicant was diagnosed in service with an Adjustment Disorder with Anxious and Depressed Mood, Anxiety Disorder, and personal history of mild TBI.

He is service connected by the VA for Chronic Adjustment Disorder and Migraine Headaches related to his TBI. Given his diagnosis of Anxiety Disorder, along with clear evidence of the applicant repeatedly trying to obtain treatment for his pain and being on profile, the applicant's use of his wife's medication to relieve the pain is mitigated. As there is a nexus between anxiety and the use of substances to cope with the symptoms of the disorder. Although, the applicant's more serious misconduct of physically assaulting his spouse and potentially causing injury to their infant child is not mitigated, as there is no nexus between anxiety and/or depressive symptoms and assault, and the condition does not impair the capacity to distinguish right from wrong and act in accordance with the right. There is evidence in the medical record, per a FAP case review note dated 26 January 2017, that the case did not meet criteria for spousal physical abuse, nor did it meet criteria for child neglect.

(4) Does the condition or experience outweigh the discharge? **No.** Despite the Board's application of liberal consideration, the Board considered the opinion of the Board's Medical Advisor, a voting member, that the available evidence did not support a conclusion that the applicant's conditions outweighed the unmitigated offenses for the aforementioned reason.

b. Prior Decisions Cited: NA

c. Response to Contention(s): The applicant did not make any contentions or provide any evidence to support that the discharge was improper or inequitable.

(1) Army Regulation 635-200, paragraph 3-5 state certain circumstances allow a single act of conduct or duty performance to serve as the basis for service characterization.

(2) The applicant did not submit evidence other than their statement to support the contention the discharge resulted from any medical condition. The applicant's AMHRR includes no documentation of a PTSD diagnosis. The applicant did not provide a mailing address, nor did he provide an email address; therefore, ARBA was unable to send a letter to the applicant requesting documentation to support a BH diagnosis.

d. The Board determined the discharge is inequitable based on partial medical/BH mitigation for the Basis of Separation. The weight of the applicant's overall service record, including service and length, along with and FAP evidence before the board, and the medical mitigation, resulted in a vote to upgrade the applicant's discharge characterization to Honorable, and directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, paragraph 14-12a.

e. Rationale for Decision:

(1) Published Department of Defense guidance indicates the guidance is not intended to interfere or impede on the Board's statutory independence. The Board determines the relative weight of the action that was the basis for the discharge and whether it supports relief or not. In reaching its determination, the Board considers the application, available records and any supporting documents included with the application.

(2) The Board voted to change the applicant's SPD code to Misconduct (Minor Infractions)/JKN.

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

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

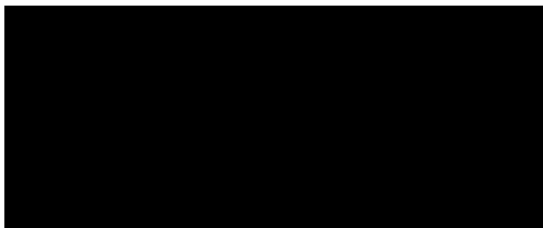
AR20210015351

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:

3/2/2026



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
FTR – Failure to Report

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