

1. Applicant's Name: [REDACTED]

a. **Application Date:** 21 June 2021

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

c. **Counsel:** None

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, the applicant had six years of good service and the situation occurring late in the applicant's enlistment does not reflect the amount of good service the applicant provided to this country. After a divorce in which the applicant took custody of three children, and after two people close to the applicant died, the applicant spiraled. The applicant contends that the chapter the applicant was told the applicant would receive is not the chapter the applicant ultimately received. The applicant states the decision is affecting the applicant's education benefits.

c. **Board Type and Decision:** In a records review conducted on 5 February 2026, and by a 3-0 vote, the Board granted the request upon finding the separation was inequitable. The medical advisor opined there is evidence of BH conditions that partially mitigate the basis of separation. The applicant was diagnosed in service with an Adjustment Disorder and PTSD and is service connected by the VA for Chronic Adjustment Disorder. Given the nexus between PTSD, using substances for self-medication and avoidance, the possession and use of a controlled substance, the DUI, being drunk on duty, FTRs, and missing range movement are mitigated. However, disobeying an Inappropriate Relationships Policy, fraternizing, and making false statements are not mitigated because there is no natural sequela between an Adjustment or PTSD and this misconduct. Neither an Adjustment Disorder or PTSD interfere with the ability to understand policies or differentiate between right and wrong. The Board had discussions regarding the applicant's length, quality and two deployments to Iraq during 2005-2006 and 2007-2008, and the fact the discharge occurred in 2009. It was determined the overall performance of the applicant mitigates the remaining misconduct and the upgrade was warranted. The Board felt the applicant paid a price for the unmitigated misconduct and decided there was no value punishing him further by not approving the upgrade. 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:** Pattern of Misconduct / AR 635-200, Paragraph 14-12b / JKA / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 6 May 2009

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 6 March 2009

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant received a Field Grade Article 15 on 14 June 2008 for disobeying a General Order and making a false statement. The applicant received a Field Grade Article 15 on 29 November 2008 for possessing and using a controlled substance. The applicant received a Field Grade Article 15 on 26 February 2009 for drunk driving. The applicant received a Field Grade Article 15 on 2 August 2007 for failing to go to the appointed place of duty, missing movement, and being drunk on duty. The applicant's patterns of misconduct brought discredit upon the United States Army and were not in keeping with good order and discipline.

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

(4) Legal Consultation Date: 6 March 2009

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 2 April 2009 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Reenlistment Under Review: 17 September 2005 / 6 years

b. Age at Enlistment / Education / GT Score: 21 / HS Graduate / 107

c. Highest Grade Achieved / MOS / Total Service: E-5 / 21B10, Combat Engineer / 6 years, 1 month, 5 days

d. Prior Service / Characterizations: RA, 2 April 2003 – 16 September 2005 / HD

e. Overseas Service / Combat Service: SWA / Iraq (27 October 2007 – 11 December 2008); SWA / Iraq (28 January 2005 – 25 January 2006)

f. Awards and Decorations: ARCOM, AGCM, NDSM, GWOTEM, GWOTSM, ICM-CS, NOPDR, ASR, OSR – 2, CAB

g. Performance Ratings: 1 February 2008 – 14 June 2008 / Successful

h. Disciplinary Action(s) / Evidentiary Record:

(1) Field Grade Article 15, 2 August 2007, for on or about 24 October 2006 and 23 July 2007, failing to go at the time prescribed to the applicant's appointed place of duty and for on or about 16 February 2007, as a result of wrongful previous overindulgence in intoxicating liquor or drugs was incapacitated for the proper performance of duties. The applicant's punishment included reduction to E-3 (suspended to be automatically remitted if not vacated on or before 2 February 2008), forfeiture of \$864 pay per month for one month, and 45 days extra duty and restriction.

(2) Developmental Counseling Form shows the applicant was counseled on 23 May 2008 for being in a junior enlisted female's containerized housing unit, which was a violation of the company inappropriate relationships policy memo, dated 9 April 2008. The applicant's relationship with PVT A_ was not of a professional nature and was a violation of Article 134, When the applicant was initially confronted by SFC S_, the applicant's platoon sergeant, the

applicant provided false statements, saying that the applicant had been at the phone center and eating breakfast.

(3) Field Grade Article 15, 14 June 2008, for on or about 23 May 2008, at or near FOB Kalsu, Iraq, violated a lawful general order, by wrongfully being in PVT A_'s (a female) room during unauthorized hours (2300-0900) and making a false official statement.

(4) Developmental Counseling Form, 5 November 2008, reflects the applicant was counseled for abuse of a controlled substance. On or about 4 November 2008, the applicant was observed to be acting under the influence of a controlled substance. The applicant admitted to receiving and taking a pill from PV2 M_. The applicant was under the impression that it was a sleeping pill. Neither the applicant nor PV2 M_ had a prescription for the pill.

(5) Memorandum from Defense Counsel, representing the applicant, 14 November 2008, which shows the applicant had been having trouble sleeping because of personal problems at home, and had recently gone through a divorce and gained custody of their three children. A year prior the applicant suffered the loss of a close friend and more recently the applicant's mother had been struggling with health issues. On the evening of 3 November 2008, the applicant asked PFC M_ if PFC M_ had anything that would help the applicant sleep. The applicant maintained that the applicant thought PFC M_ gave the applicant an over-the-counter sleep aid because it was in the bubble packaging that is commonly used to store over the counter medication. The applicant later learned it was Xanax, a prescription drug. The evening of 3 November 2008, the applicant was questioned about the medication and immediately told the first sergeant what happened. Because the applicant had no knowledge of the existence of the controlled substance, this was an innocent ingestion and therefore, the applicant should be found not guilty of violating Article 112(a). Defense counsel also stated there was no evidence presented in the applicant's non-judicial punishment packet indicating exactly what was in the pill that PFC M_ gave the applicant. There was no drug tests conducted to determine what the substance was and if it was in fact illegal. Which led to the very real possibility that it may have in fact been an over-the-counter sleep aid and not an illegal substance. Because the Government failed to establish beyond a reasonable doubt that the applicant used a controlled substance, the defense requested that they reach a finding of not guilty.

(6) Field Grade Article 15, 29 November 2008, for wrongfully possessing and using Xanax, a Schedule 4 controlled substance, on or about 3 November 2008. The applicant's punishment included reduction to E-2, forfeiture of \$755 for two months (suspended, to be automatically remitted if not vacated on or before 29 May 2009), 45 days extra duty (suspended, to be automatically remitted if not vacated on or before 29 May 2009). The applicant elected not to appeal.

(7) Military Police Report, 16 January 2009, reflects the applicant was apprehended by military police for drunken driving, while attempting to gain access to Fort Stewart installation.

(8) General Officer Memorandum of Reprimand, 24 February 2009, shows the applicant was reprimanded for driving while under the influence of alcohol. On 16 January 2009, at Fort Stewart, GA, while attempting to gain access to the installation, a military police officer detected a strong odor of alcohol emanating from the applicant's person. The applicant was given several field sobriety tests, which the applicant failed. A breathalyzer test showed the applicant's blood alcohol content at the time was .216. As a result, the applicant was cited with drunken driving.

(9) Field Grade Article 15, 26 February 2009, for on or about 16 January 2009, physically controlling a vehicle while drunk. The applicant's punishment included reduction to

E-1, forfeiture of \$699 pay per month for two months, 45 days extra duty and 45 days restriction, suspended, to be automatically remitted if not vacated before 25 August 2009.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s): The following documents have been provided to the ARBA Medical Advisor, if applicable. See **“Board Discussion and Determination”** for Medical Advisor Details.

(1) Applicant provided: None

(2) AMHRR provided: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293

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), 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.

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:

- 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 waivable. Eligibility: Ineligible unless a waiver is granted.
- 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.

g. 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. It states:

(a) 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.

(b) 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 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. 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.

(3) 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. If Secretarial Authority is granted normally correct the record to show the following:

- Separation Authority: Army Regulation 635-200, Chapter 15
- Separation Code: JFF
- Reenlistment Code: RE1
- Narrative Reason for Separation: Secretarial Plenary Authority
- Character of Service: Honorable

h. 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 "JKA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14b, Pattern of Misconduct.

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 Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed. The applicant was separated under the provisions of AR 635-200, paragraph 14-12b, by reason of pattern of misconduct, with a general (under honorable conditions) characterization of service.

b. The applicant contends the applicant had six years of good service and the situation occurring late in the applicant's enlistment does not reflect the amount of good service the applicant provided to this country. After a divorce in which the applicant took custody of three children, and after two people close to the applicant died, the applicant spiraled. 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.

c. The applicant contends that the chapter the applicant was told the applicant would receive is not the chapter the applicant ultimately received. The applicant provided no supporting evidence beyond their statement to support this contention.

d. The applicant states the decision is affecting the applicant's education benefits. Eligibility for veteran's benefits to include educational benefits under 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.

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, (Chronic) Adjustment Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was diagnosed in service with an Adjustment Disorder and PTSD and is service connected by the VA for Chronic Adjustment Disorder.

(3) Does the condition or experience excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that there is evidence of BH conditions that partially mitigate the basis of separation. The applicant was diagnosed in service with an Adjustment Disorder and PTSD and is service connected by the VA for Chronic Adjustment Disorder. Given the nexus between PTSD, using substances for self-medication and avoidance, the possession and use of a controlled substance, the DUI, being drunk on duty, FTRs, and missing range movement are mitigated. However, disobeying an Inappropriate Relationships Policy, fraternizing, and making false statements are not mitigated because there is no natural sequela between an Adjustment or PTSD and this misconduct. Neither an Adjustment Disorder or PTSD interfere with the ability to understand policies or differentiate between right and wrong.

(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/did not outweigh the basis of separation.

b. Prior Decisions Cited: N/A

c. Response to Contention(s):

(1) The applicant contends the applicant had six years of good service and the situation occurring late in the applicant's enlistment does not reflect the amount of good service the applicant provided to this country. After a divorce in which the applicant took custody of three children, and after two people close to the applicant died, the applicant spiraled, and the chapter the applicant was told the applicant would receive is not the chapter the applicant ultimately received.

The Board determined that this contention was valid and voted to upgrade the characterization of service due to PTSD and Adjustment Disorder mitigating the applicant's substance use that resulted in a DUI.

(2) The applicant contends that the chapter the applicant was told the applicant would receive is not the chapter the applicant ultimately received.

The Board considered this contention but determined that the contention is not a matter upon which the Army Discharge Review Board grants a change in discharge. The issue raises no matter of fact, law, procedure, or discretion related to the discharge process, nor is it associated with the discharge when it was issued.

(3) The applicant states the decision is affecting the applicant's education benefits. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do 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. The Board voted to upgrade by a 3-0 vote to Honorable, JKN, with an updated RE Code of 3. The medical advisor opined there is evidence of BH conditions that partially mitigate the basis of separation. The applicant was diagnosed in service with an Adjustment Disorder and PTSD and is service connected by the VA for Chronic Adjustment Disorder. Given the nexus between PTSD, using substances for self-medication and avoidance, the possession and use of a controlled substance, the DUI, being drunk on duty, FTRs, and missing range movement are mitigated. However, disobeying an Inappropriate Relationships Policy, fraternizing, and making false statements are not mitigated because there is no natural sequela between an Adjustment or PTSD and this misconduct. Neither an Adjustment Disorder or PTSD interfere with the ability to understand policies or differentiate between right and wrong. The Board had discussions regarding the applicant's length, quality and two deployments to Iraq during 2005-2006 and 2007-2008, and the fact the discharge occurred in 2009. It was determined the overall performance of the applicant mitigates the remaining misconduct and the upgrade was warranted. The Board felt the applicant paid a price for the unmitigated misconduct and decided there was no value punishing him further by not approving the upgrade. "

e. Rationale for Decision:

(4) 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.

(5) The Board voted to change the applicant's characterization of service because, despite applying liberal consideration of all the evidence before the Board, the applicant's BH diagnoses PTSD and adjustment disorder excused or mitigated the offenses of substance use that mitigated the DUI, being drunk on duty, and missing range movement are mitigated.

(6) The Board voted to change the applicant's reason for discharge or accompanying SPD code under the same pretexts, as the reason the applicant was discharged was inequitable.

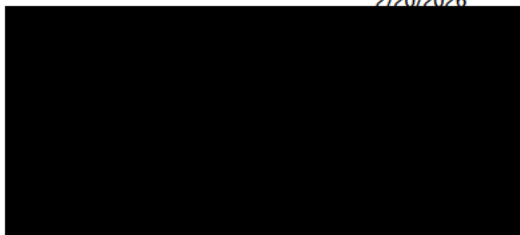
(7) The RE code will change, as the current code is inconsistent with the procedural and substantive requirements of the regulation.

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, paragraph 14-12a**

Authenticating Official:

2/20/2026



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
UOTHHC – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs