

1. Applicant's Name: [REDACTED]**a. Application Date:** 2 July 2021**b. Date Received:** 12 July 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. Applicant's Contentions: The applicant did not present any issues of propriety or equity for the Board's consideration, but states the upgrade is requested based the 10-year rule.

b. Board Type and Decision: In a records review conducted on 02 May 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's length and quality of service, the circumstances surrounding the discharge (PTSD diagnoses), and post-service accomplishments. 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 **Board Discussion and Determination** section for more detail regarding the Board's decision.*

(Board member names available upon request)

3. DISCHARGE DETAILS:

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

b. Date of Discharge: 23 July 2010

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 21 May 2010

(2) Basis for Separation: The applicant was informed of the following reasons: On 25 March 2010, the applicant was found guilty beyond a reasonable doubt during a Field Grade Article 15 of one specification of being absence without leave (AWOL) and one specification of failure to obey order or regulation; on or about 4 March 2010, the applicant failed to go at the prescribed time to the appointed place of duty; on or about 5 March 2010, the applicant willfully failed to conduct personal hygiene after conducting PT; on 9 December 2009, the applicant was found guilty beyond a reasonable doubt during a Company Grade Article 15 hearing of two specifications of AWOL and one specification of Failure to obey order or regulation; on or about 10 November 2009 and 23 September 2009, failed to go at the prescribed time to the appointed place of duty; on or about 4 November 2009, failed to conduct PT after accountability formation; on 17 August 2009, the applicant was found guilty beyond reasonable doubt during a Company

Grade Article 15 hearing of three specifications of AWOL; and on or about 6 January 2009, 9 July 2009, and 30 July 2009, the applicant failed to go at the prescribed time to the appointed place of duty.

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

(4) Legal Consultation Date: NIF

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 22 June 2010 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 8 December 2006 / 6 years

b. Age at Enlistment / Education / GT Score: 27 / HS Graduate / 95

c. Highest Grade Achieved / MOS / Total Service: E-4 / 63B10, H8 Wheeled Vehicle Mechanic / 5 years, 4 months, 14 days

d. Prior Service / Characterizations: RA, 10 March 2005 – 7 December 2006 / HD

e. Overseas Service / Combat Service: Korea, SWA / Qatar (3 June 2006 – 9 November 2006)

f. Awards and Decorations: ACM-CS, ARCOM, AGCM, NDSM, GWOTSM, KDSM, ICM-CS, ASR, OSR, NATO NDL

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) Company Grade Article 15, 17 August 2009, reflects on or about 30 July 2009, the applicant failed to go to the appointed place of duty on three separate occasions. The punishment consisted of reduction to private first class/E-3, suspended, to be automatically remitted if not vacated before 15 November 2009; forfeiture of \$433 pay, suspended, to be automatically remitted if not vacated before 15 November 2009; and extra duty and restriction for 14 days.

(2) Company Grade Article 15, 9 December 2009, reflects the applicant failed to go to the appointed place of duty on two separate occasions and was derelict in the performance of duties by willfully failing to conduct PT after accountability formation. The punishment consisted of reduction to private first class/E-3; forfeiture of \$433 pay, suspended, to be automatically remitted if not vacated before 28 February 2010; extra duty and restriction for 14 days; and an oral reprimand.

(3) Field Grade Article 15, 22 March 2010, reflects on or about 4 March 2010, the applicant failed to go to the appointed place of duty and was derelict in the performance of duties by willfully failing to conduct personal hygiene. The punishment consisted of reduction the private/E-1; forfeiture of \$723 pay per month for 2 months, suspended, to be automatically

remitted if not vacated before 21 September 2010; extra duty and restriction for 45 days; and an oral reprimand.

(4) The applicant was counseled on multiple occasions for various forms of misconduct.

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

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** Report of Behavioral Health Evaluation (BHE), 22 April 2010, reflects the applicant had the mental capacity to understand and participate in the proceedings and was mentally responsible. The applicant was diagnosed with adjustment disorder.

5. APPLICANT-PROVIDED EVIDENCE: DD Form 149

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

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

(6) Paragraph 14-12b, addresses a pattern of misconduct consisting of either discreditable involvement with civilian or military authorities or discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct found in the Uniform Code of Military Justice, Army Regulations, the civilian law and time-honored customs and traditions of the Army.

(7) 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.

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

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

The applicant was separated under the provisions of Army Regulation 635-200, Chapter 14-12b, due to Pattern of Misconduct, with a General (Under Honorable Conditions) discharge.

The applicant did not present any issues of propriety or equity for the Board's consideration, but states the upgrade is requested based the 10-year rule.

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: Adjustment Disorder, Alcohol Disorder, and PTSD.

(2) Did the condition exist or experience occur during military service? **Yes.** Adjustment Disorder, Alcohol Disorder, and trauma symptoms noted in the medical records.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that in-service documentation supports a progressive decline in their mental health after the loss of their son before deployment which escalated after deployment due to combat traumas ultimately resulting in the service connected PTSD. Given the nexus between PTSD and the in-service symptoms, which were underdiagnosed, with the various acts of misconduct, mitigation is recommended.

(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. Response to Contention(s): The applicant did not present any issues of propriety or equity for the Board's consideration, but states the upgrade is requested based on the 10-year rule.

The Board considered this contention, however there is no 10 year rule in regulatory or policy guidance. The Board reviewed all available military records and determined an upgrade was warranted.

c. The Board determined the discharge is inequitable based on the applicant's service connected PTSD outweighed the applicants pattern of misconduct. 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.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Post Traumatic Stress Disorder outweighed the applicant's misconduct of patterns of misconduct. Thus, the prior characterization is no longer appropriate.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same rationale, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

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

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

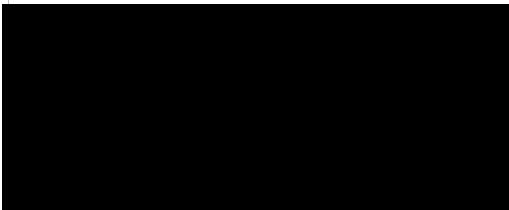
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10. BOARD ACTION DIRECTED:

- 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:

5/6/2025



Legend:

AWOL – Absent Without Leave
AMHRR – Army Military Human
Resource Record
BCD – Bad Conduct Discharge
BH – Behavioral Health
CG – Company Grade Article 15
CID – Criminal Investigation
Division
ELS – Entry Level Status
FG – Field Grade Article 15

GD – General Discharge
HS – High School
HD – Honorable Discharge
IADT – Initial Active Duty Training
MP – Military Police
MST – Military Sexual Trauma
N/A – Not applicable
NCO – Noncommissioned Officer
NIF – Not in File
NOS – Not Otherwise Specified

OAD – Ordered to Active Duty
OBH (I) – Other Behavioral
Health (Issues)
OMPF – Official Military
Personnel File
PTSD – Post-Traumatic Stress
Disorder
RE – Re-entry
SCM – Summary Court Martial
SPCM – Special Court Martial

SPD – Separation Program
Designator
TBI – Traumatic Brain Injury
UNC – Uncharacterized
Discharge
UOTHC – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs