

**1. Applicant's Name:** [REDACTED]**a. Application Date:** 28 July 2021**b. Date Received:** 9 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 and changes the RE code and narrative reason.

**b.** The applicant seeks relief contending, in effect, the applicant's departure from the military was a direct result of the applicant's ill decision to return to Georgia in order to ensure the applicant's children would not fail in school and to obtain the best medical treatment for the applicant's youngest daughter. The applicant's children have been successful at graduating high school, entering college, and one has served eight honorable years in service, however the applicant's marriage failed. The applicant has not been able to move forward because of the RE code 4, the narrative reason, and characterization of service. The applicant has qualified for positions but due to their DD Form 214, the applicant is not able to attain the positions. The applicant has suffered greatly financially and requests and upgrade of the discharge in order to have a career.

**c. Board Type and Decision:** In a records review conducted on 21 August 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicants length, quality of service to include combat and the circumstances surrounding the discharge (Depressive Disorder with ongoing assessment for a Trauma Disorder). 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, and the reentry code to RE-3.

*Please see Section 9 of this document for more detail regarding the Board's decision.*

**3. DISCHARGE DETAILS:**

**a. Reason / Authority / Codes / Characterization:** In Lieu of Trial by Court-Martial / AR 635-200, Chapter 10 / KFS / RE-4 / General (Under Honorable Conditions)

**b. Date of Discharge:** 21 December 2012**c. Separation Facts:****(1) Date and Charges Preferred (DD Form 458, Charge Sheet):** NIF**(2) Legal Consultation Date:** NIF**(3) Basis for Separation:** NIF**(4) Recommended Characterization:** NIF

**(5) Separation Decision Date / Characterization: NIF**

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 11 December 2007 / 6 years

**b. Age at Enlistment / Education / GT Score:** 35 / High School Graduate / 100

**c. Highest Grade Achieved / MOS / Total Service:** E-6 / 92F30, H7 Petroleum Supply Specialist / 6 years, 11 months, and 9 days

**d. Prior Service / Characterizations:** RA, 5 March 1996 - 5 March 1999 / HD  
Inactive, 6 March 1999 - 8 February 2004  
USAR, 9 February 2004 - 11 September 2005 / HD

**e. Overseas Service / Combat Service:** SWA / Kuwait (25 March 2004 - 26 November 2004)

**f. Awards and Decorations:** NDSM, GWOTSM, ASR, GWOTEM, AAM-2

**g. Performance Ratings:** 17 April 2004 - 16 April 2005 / Fully Capable  
17 April 2005 - 16 April 2006 / Fully Capable  
17 April 2007 - 12 December 2007 / Fully Capable  
13 December 2007 - 12 December 2008 / Fully Capable  
13 December 2008 - 26 August 2009 / Among the Best

**h. Disciplinary Action(s) / Evidentiary Record:**

**(1)** DD Form 553 (Deserter/Absentee Wanted by the Armed Forces), shows the applicant went AWOL on 3 August 2011 and was declared a deserter on 3 September 2011.

**(2)** DA Form 616 (Report of Return of Absentee), shows the applicant surrendered to military authorities on 22 August 2012 and was returned to military control.

**(3)** The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty), reflects the applicant had completed the first full term of service. The applicant was discharged under the authority of AR 635-200, Chapter 10, by reason of In Lieu of Trial by Court-Martial, with a characterization of service of general (under honorable conditions). The DD Form 214 was not authenticated with the applicant's electronic signature. The applicant had lost time for the period 3 September 2011 to 22 August 2012.

**i. Lost Time / Mode of Return:** 11 months and 20 days (AWOL, 3 September 2011 - 22 August 2012) / Surrendered to Military Authorities

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

**(1) Applicant provided:** None

**(2) AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293; three DD Forms 214; and Joint Services Transcript.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant has attended Global Combat Support System School and received certifications in operating and training individuals on the use of the GCSS-Army. The applicant is an GCSS-Army trainer and operator and has worked overseas for contracting companies.

**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), 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 (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 10 provides, in pertinent part, that a member who has committed an offense or offenses for which the authorized punishment includes a punitive discharge may submit a request for a discharge for the good of the Service in lieu of trial by court-martial. The request may be submitted at any time after charges have been preferred and must include the individual's admission of guilt.

(4) Paragraph 10-6 stipulates medical and mental examinations are not required but may be requested by the Soldier under AR 40-501, chapter 8.

(5) Paragraph 10-8a stipulates a discharge under other than honorable conditions normally is appropriate for a Soldier who is discharged in lieu of trial by court-martial. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record during the current enlistment. (See chap 3, sec II.)

(6) Paragraph 10b stipulates Soldiers who have completed entry-level status, characterization of service as honorable is not authorized unless the Soldier's record is otherwise so meritorious that any other characterization clearly would be improper.

(7) After receiving legal counseling, the soldier may elect to submit a request for discharge in lieu of trial by court-martial. The soldier will sign a written request, certifying that they have been counseled, understands their rights, and may receive a discharge under other than honorable conditions.

(8) The following data will accompany the request for discharge:

- A copy of a Charge Sheet (DD Form 458)
- Report of medical examination and mental status evaluation, if conducted
- A complete copy of all reports of investigation

- Any statement, documents, or other matter considered by the commanding officer in making his/her recommendation, including any information presented for consideration by the soldier or consulting counsel
- A statement of any reasonable ground for belief that the Soldier is, or was at the time of misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included

**(9)** The Soldier's written request will also include an acknowledgment that they understand the elements of the offense(s) charged and is guilty of the charge(s) or of a lesser included offense(s) therein contained which also authorizes the imposition of a punitive discharge. A Soldier may waive consultation with counsel, however, if they consulted with counsel, consulting counsel will sign as a witness.

**(10)** 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.

**e.** 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 "KFS" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 10, In Lieu of Trial by Court-Martial.

**f.** Army Regulation 601-210, (Regular Army and Reserve Components Enlistment Program), governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1, defines reentry eligibility (RE) codes:

**(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, and changes the RE code and narrative reason. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's AMHRR is void of a copy of the complete separation proceedings, however, includes partial facts and circumstances concerning the events which led to the discharge from the Army. The applicant provided and the AMHRR contains a properly constituted DD Form 214, which was not authenticated by the applicant's electronic signature. The applicant's DD Form 214 shows the applicant had lost time from 3 September 2011 to 22 August 2012 and was discharged on 21 December 2012 under the provisions of AR 635-200, Chapter 10, by reason of In Lieu of Trial by Court-Martial, with a characterization of service of general (under honorable conditions).

c. The applicant requests the narrative reason for the discharge to be changed. The applicant was separated under the provisions of Chapter 10, AR 635-200, with an general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "In Lieu of Trial by Court-Martial," and the separation code is "KFS." Army Regulation 635-8 (Separation Processing and Documents), governs the preparation of the DD Form 214, and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be as listed in tables 2-2 or 2-3 of AR 635-5-1 (SPD Codes). The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

d. The applicant requests a RE code change. Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. Based on Army Regulation 601-210, the applicant was appropriately assigned an RE code of "4." An RE code of "4" cannot be waived, and the applicant is no longer eligible for reenlistment.

e. The applicant contends, in effect, the applicant went AWOL to return to Georgia in order to ensure the applicant's children would not fail in school and to obtain the best medical treatment for the applicant's youngest daughter. There is no evidence in the AMHRR the applicant ever sought assistance before going AWOL, which led to the separation from the Army.

f. The applicant contends an upgrade of the discharge will allow the applicant to obtain positions the applicant is qualified for. The Board does not grant relief to gain employment or enhance employment opportunities.

g. The applicant contends to have attended Global Combat Support System School and received certifications in operating and training individuals on the use of the GCSS-Army. The applicant is an GCSS-Army trainer and operator and has worked overseas for contracting companies. The states they would be a great asset to a company or to our country. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

h. 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: Report of at least one physical assault in-service with VA noting MST, however no related information. VA diagnosis of Depressive Disorder with ongoing assessment for a Trauma Disorder.

**(2)** Did the condition exist or experience occur during military service? **Yes.** Report of at least one physical assault in-service (appears spousal assault) with VA noting MST, however no related information.

**(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 physical assault with related trauma symptoms, and nexus between trauma and avoidance, the basis is mitigated. While her application references leaving to care for her children, at the time of the application she had not disclosed her in-service abuse. Given it is not uncommon for victims to avoid disclosure, offering other reasons for misconduct, it is as likely as not she was abused and it contributed, at least partially, in her misconduct.

**(4)** Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the applicant's condition or experience outweighed the listed basis for separation for the aforementioned reasons.

**b.** Prior Decisions Cited:

**c.** Response to Contentions:

**(1)** The applicant contends, in effect, the applicant went AWOL to return to Georgia in order to ensure the applicant's children would not fail in school and to obtain the best medical treatment for the applicant's youngest daughter. There is no evidence in the AMHRR the applicant ever sought assistance before going AWOL, which led to the separation from the Army.

The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's MST fully outweighing the applicant's AWOL basis for separation.

**(2)** The applicant contends an upgrade of the discharge will allow the applicant to obtain positions the applicant is qualified for.

The Board considered this contention but does not grant relief to gain employment or enhance employment opportunities.

**(3)** The applicant contends to have attended Global Combat Support System School and received certifications in operating and training individuals on the use of the GCSS-Army. The applicant is an GCSS-Army trainer and operator and has worked overseas for contracting companies. The states they would be a great asset to a company or to our country. The Board acknowledged this contention.

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d. The Board determined the discharge is inequitable based on the applicants length, quality of service to include combat and the circumstances surrounding the discharge (Depressive Disorder with ongoing assessment for a Trauma Disorder). 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, and the reentry code to RE-3.

e. Rationale for Decision:

(1) . The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation. The Board found sufficient evidence of in-service mitigating factors (Length, Quality, Combat) and concurred with the conclusion of the medical advising official that the applicant's (MST) does mitigate the applicant's AWOL. Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was inequitable and warrants an upgrade and a change to the RE Code.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts, 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 change to RE-3.

**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: RE-3
- e. Change Authority to: AR 635-200

**Authenticating Official:****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



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SPD – Separation Program  
Designator  
TBI – Traumatic Brain Injury

UNC – Uncharacterized  
Discharge

UOTHC – Under Other Than  
Honorable Conditions

VA – Department of Veterans  
Affairs