

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 7 July 2021
- b. **Date Received:** 2 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 Bad Conduct. The applicant requests an upgrade to honorable and a narrative reason change.

The applicant seeks relief contending, in effect, being deployed to Iraq was life changing for them, every day they feared they would not make it back home to their family. They witnessed mortar round attacks, before one of the attacks the applicant was talking to a service member for roughly five minutes, and it was the last time they saw them. The mortar round landed directly in front of the soldier they were talking to, the applicant expresses guilt, because if they would not have stopped the soldier to converse the soldier would not have been in the position to where the mortar round landed that killed them. After that they were angry at the world. They thought about giving up so many times. They continued doing patrols and an IED exploded on the third vehicle traveling behind their convoy, everyone escaped except for the 18 year old gunner that was trapped and covered flames. Their fear of dying increased and they felt numb to everything.

When they finally went home, they were not the same, waking up was not the problem because they did not sleep much. They tried talking to their leadership, but they felt like their issues were seen as a weakness. They wanted help but they did not want to seem weak to anyone, being deployed took a heavy toll on their mental health. They have nightmares from their deployment, they wake up in cold sweats, they do not talk much about it. They want help from someone who will understand what they have been dealing with for years.

b. Board Type and Decision: In a records review conducted on 28 March 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, the circumstances surrounding the discharge (OBHI and 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 to 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 RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

*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: Court-Martial, Other / AR 635-200, Chapter 3 / JJD / RE-4 / Bad Conduct

b. Date of Discharge: 16 January 2009

c. Separation Facts:

(1) Pursuant to Special Court-Martial Empowered to Adjudge a Bad-Conduct Discharge: As announced by Special Court Order Number 9, 19 March 2008. On 20 November 2007 the applicant was found guilty of violating Article 86 of the UCMJ.

(2) Adjudged Sentence: Reduction to E-1, to be confined for 4 months, and to be discharged from the service with a Bad Conduct Discharge.

(3) Date / Sentence Approved: 20 November 2007 / Only so much of the sentence, a reduction E-1, confinement for 4 months, and a bad conduct discharge was approved and, except for the part of the sentence extending to a bad conduct discharge, would be executed. The applicant was credited with 3 days of confinement towards the sentence to confinement.

(4) Appellate Reviews: The Record of Trial was forwarded to The Judge Advocate General of The Army for review by the Court of Military Review. The United States Army Court of Criminal Appeals affirmed the approved findings of guilty and the sentence on 21 April 2008.

(5) Date Sentence of BCD Ordered Executed: 18 August 2008

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 19 June 2003 / 5 years.

b. Age at Enlistment / Education / GT Score: 18 / HS Graduate / 109

c. Highest Grade Achieved / MOS / Total Service: E-4 (Specialist) / 25Q10 Multichannel Transmission Systems Operator-Maintainer / 4 years, 29 days.

d. Prior Service / Characterizations: None.

e. Overseas Service / Combat Service: None / Iraq; 20050106 – 20060106

f. Awards and Decorations: NDSM, GWTSM, ICM-CS, ASR

g. Performance Ratings: N/A

h. Disciplinary Action(s) / Evidentiary Record:

(1) An Enlistment/ Reenlistment Document provides the applicant enlisted in the United States Army Reserve at the pay grade of E-1 with an active-duty obligation of 5 years on 1 July 2002

(2) The applicant received the Army Commendation Medal for their meritorious service as a line of sight operator during Operation Iraqi Freedom III from 6 January 2005 – 6 January 2006.

(3) A Personnel Action Document provides that the applicant's duty status changed from present for duty (PDY) to absent without leave (AWOL) on 15 June 2006. On 14 July 2006 the applicant was dropped from rolls.

(4) A Report of Return of Absentee document indicates that the applicant was apprehended by civil authorities and returned to military control on 23 September 2007.

(5) A DD Form 458 (Charge Sheet) shows that on 25 October 2007 the applicant was charged with violating Article 86 of the Uniform Code of Military Justice (UCMJ); without authority the applicant was absent from their organization located at Fort Stewart, Georgia from 15 June 2006 – 23 September 2007.

(6) A Department of The Army Report of Trial document provides that the applicant plead guilty and was found guilty of violating Article 86 of the UCMJ on 20 November 2007. Punishment consisted of four months of confinement, reduction to E-1 and a bad conduct discharge.

(7) On 21 February 2008 the applicant was released from confinement upon completion of their sentence.

(8) A Special Court-Martial Order document dated 18 August 200 provides that the applicant completed the confinement portion of their sentence, and their bad conduct discharge was executed.

i. Lost Time / Mode of Return: AWOL; 20060629 – 20070923 / Apprehended by civil authorities; Confinement 20071120 – 20080221 / Released from Military Confinement.

j. Behavioral Health Condition(s):

(1) Applicant provided: The applicant states they have PTSD, they did not provide any medical records to support their diagnosis.

(2) AMHRR Listed:

5. APPLICANT-PROVIDED EVIDENCE: A DD Form 293 (Discharge Review) application, DD Form 214, a two page self-authored statement and a letter of recommendation in support of their application.

6. POST SERVICE ACCOMPLISHMENTS:

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 provides the authorized types of characterization of service or description of separation.

(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) An Under other-than-honorable-conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

(4) A Bad Conduct discharge will be given to a soldier only after an approved sentence of a general or special court-martial. The appellate review must be completed, and the affirmed sentence ordered duly executed.

(5) 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 (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 "JJD" as the appropriate code to assign enlisted soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 3, Court-Martial (other).

f. Army Regulation 630-10 (Absence Without Leave, Desertion, and Administration of Personnel Involved in Civilian Court Proceedings) provides policies and procedures for reporting unauthorized absentees and deserters, the administering of absent without leave (AWOL) personnel and deserters, returning absentees and deserters to military control and the surrendering of military personnel to civilian law enforcement authorities.

(1) When a soldier returns from an absence that is or appears to be unauthorized, the unit commander informally investigates whether disciplinary action should be taken and if the soldier should be charged with time lost.

(2) Classification of an absence is dependent upon such factors as the following

- Orders and instructions, written and oral, the Soldier received before and during the absence.
- Age, military experience, and general intelligence of the soldier
- Number and type of contact the soldier had with the military while absent.
- Complete or incomplete results of a court-martial decision if any

(3) An absence immediately following authorized leave is classified as AWOL. Should the absence subsequently be reclassified, the soldiers leave is corrected to reflect the reclassified absence, except if the absence is caused by the following:

- Mental incapacity

- Detention by civilian authorities
- Early departure of a mobile unit due to operational commitments

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.

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

a. The applicant requests an upgrade to honorable. The applicant's DD Form 214 indicates that the applicant received a bad conduct discharge which is considered appropriate for a soldier found guilty by a special court martial.

b. Based on the available evidence the applicant entered active duty service at the age of 18 on 19 June 2003. On 6 January 2005 the applicant deployed to Iraq for 12 months, five months after they returned from deployment, they were absent without leave. The applicant was AWOL until they were apprehended by civil authorities in Georgia after they were a passenger in a vehicle that was stopped by law enforcement during a traffic violation. The applicant plead guilty during special court martial proceedings and spent four months in confinement. The applicant's AMHRR is void of misconduct prior to their deployment to Iraq and before they were AWOL.

c. The applicant's AMHRR provides that the applicant was found guilty by a special court-martial; the sentence was approved by the convening authority. A DD Form 214 indicates that the applicant was discharged under the provisions of AR 635-200, Chapter 3, court-martial (other), with a bad conduct characterization of service on 16 January 2009.

d. The Board is empowered to change the discharge only if clemency is determined to be appropriate. Clemency is an act of mercy, or instance of leniency to moderate the severity of the punishment imposed.

e. Published Department of Defense guidance indicates that the guidance is not intended to interfere or impede on the Board's statutory independence. The Board will determine the

relative weight of the action that led to the discharge and whether it supports relief or not. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

9. BOARD DISCUSSION AND DETERMINATION:

a. As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant's asserted combat-related Behavior Health (BH) trauma, may be sufficient evidence to establish the existence of a condition that could mitigate or excuse the discharge.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found applicant's asserted BH trauma occurred during active service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** There is insufficient evidence the applicant had a mitigating BH condition while on active duty; however, his self-assertion of combat-related BH trauma is credible and indicates they, more likely than not, suffered from significant PTSD as they self-assert.

(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 applicant's self-asserted BH condition or experience outweighed the basis of separation (AWOL).

b. Prior Decisions Cited: None.

c. Response to Contention(s):

(1) The applicant contends they had mental and physical health issues. The Board liberally considered this contention and determined that it was valid due to the applicant's Post Traumatic Stress Disorder outweighing the applicant's AWOL offense. Therefore, a discharge upgrade is warranted.

d. The Board determined: 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, Combat, Quality) and concurred with the conclusion of the medical advising official that the applicant's trauma 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.

e. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's behavior health condition outweighed the applicant's misconduct of AWOL. Thus, the prior characterization is no longer appropriate

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**AR20220000207**

(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.

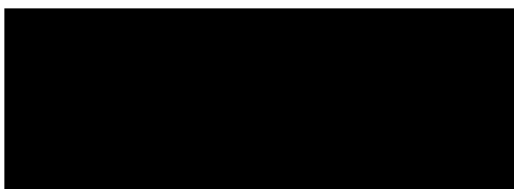
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: Yes
- b. Change Characterization to: Honorable
- c. Change Reason / SPD Code to: Misconduct (Minor Infractions)/JKN
- d. Change RE Code to: No Change
- e. Change Authority to: AR 635-200

Authenticating Official:

3/4/2026

**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