

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 4 September 2021
- b. **Date Received:** 9 November 2021
- c. **Counsel:** None

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**a. Applicant's Requests and Issues:**

(1) The current characterization of service for the period under review is general (under honorable conditions). The applicant requests an upgrade to honorable and a change of the narrative reason for separation.

(2) The applicant seeks relief contending, during the time of their separation they were dealing with Post Traumatic Stress Disorder (PTSD) and anxiety symptoms which they didn't realize they had. They left their unit to seek outside help and had no intention of being absent without leave. They were having difficulty sleeping, they were not eating, and depression started to take its toll. They were afraid of what might be prescribed to them if they used military treatment.

(3) Their actions were not a representation of who they are and was as a Soldier. They have grown and learned from the incident and seek a change in their character of service as well as the narrative reason for separation. They would like nothing more than to move past this incident and even honored to serve again if possible. They would like to utilize their educational benefits.

b. Board Type and Decision: In a records review conducted on 25 September 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the circumstances surrounding the discharge (Adjustment Disorder with Anxiety and Depressed Mood diagnoses), and the applicant's length and quality of service, to include combat service. 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.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Misconduct, (Absence Without Leave) / Army Regulation 635-200, Paragraph 14-12c(1) / JKD / RE-3 / General (Under Honorable Conditions)

b. Date of Discharge: 15 March 2012

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 29 February 2012

(2) **Basis for Separation:** between, on or about 30 November 2011 and 12 January 2012, absent without leave.

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

(4) Legal Consultation Date: 29 February 2012

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 2 March 2012 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 5 January 2010 / 3 years, 19 weeks

b. Age at Enlistment / Education / GT Score: 19 / HS Diploma / 85

c. Highest Grade Achieved / MOS / Total Service: E-4 / 11B1O, Infantryman / 2 years, 27 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Afghanistan (18 June 2010 – 23 April 2011)

f. Awards and Decorations: ACM-CS, AAM, VUA, NDSM, GWTEM, ASR, OSR, NATOMDL, CIB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) Three DA Forms 4187 (Personnel Action) dated 30 November 2011 through 17 January 2012, reflects that applicant's unit in Fort Campbell, KY reported their duty status changes with an occurrence of absence without leave from 30 November 2011 through 13 January 2012.

(2) A DD Form 616 (Report of Return of Absentee) dated 12 January 2012 reflects the applicant was apprehended by civil authorities in Montclair, CA [applicant's home of record], returned to military control on 12 January 2012, and was transferred back to Fort Campbell, KY.

(3) A DA Form 3822 (Report of Mental Status Evaluation) dated 24 January 2012 reflects the applicant as fit for full duty, including deployment.

(a) Section V (Diagnoses) shows an Axis I (Psychiatric Conditions) of Adjustment Disorder with Anxiety and Depressed Mood.

(b) Section VIII (Additional Comments) reflects the applicant was screened for PTSD and mild Traumatic Brain Injury and all screenings were negative.

(c) The Behavioral Health Provider commented the applicant has one deployment with combat exposure with no combat-related injuries. They are being processed for separation due to going absent without leave for a month and a half. They understand the proceedings and are psychiatrically cleared for any administrative proceedings deemed appropriate by command.

(4) A DA Form 2627 (Record Proceedings under Article 15, Uniform Code of Military Justice) dated 26 January 2012 reflects the applicant received nonjudicial punishment for on or about 30 November 2011, without authority, absent themselves from their unit, and did remain so absent until they were apprehended on or about 12 January 2012, in violation of Article 86 (Absence Without Leave). The applicant's punishment consisted of a reduction in rank/grade from specialist/E-4 to private/E-1, forfeiture of \$745.00 pay for 2 months, extra duty and restriction for 45 days, and an oral reprimand. The applicant elected no to appeal.

(5) A memorandum, Alpha Company, 1st Battalion, 502nd Infantry Regiment, 2nd Brigade Combat Team, 101st Airborne Division (Air Assault), subject: Separation under Army Regulation 635-200, Paragraph 14-12c(1), Commission of a Serious Offense, dated 29 February 2012, the applicant's company commander notified the applicant of their intent to separate them under the provisions of Army Regulation 635-200, Paragraph 14-12c(1), Commission of a Serious Offense with a recommended characterization of service of general (under honorable conditions) for between on or about 30 November 2011 and 12 January 2012, absent without leave. On the same day the applicant acknowledged the basis for the separation and of the rights available to them.

(6) On 29 January 2011, the applicant completed their election of rights, signing they had been advised of their rights available to them and of the effect of any action taken by them in waiving their rights. They elected not to submit statements on their behalf. They understand that they may expect to encounter substantial prejudice in civilian life if a general (under honorable conditions) discharge is issued to them.

(7) A memorandum, Alpha Company, 1st Battalion, 502nd Infantry Regiment, 2nd Brigade Combat Team, 101st Airborne Division (Air Assault), undated, the applicant's company commander submitted a request to separate them prior to their expiration term of service, stating they do not consider it feasible or appropriate to accomplish other disposition as rehabilitative attempts are not practical and will not produce a quality Soldier for continued service in the United States Armed Forces. There are no medical or other data meriting consideration in the overall evaluation to separate the applicant and in the determination as to the appropriated characterization of service.

(8) A memorandum, Headquarters, 2nd Brigade Combat Team, 101st Airborne Division (Air Assault), subject: Separation under Army Regulation 635-200, Paragraph 14-12c(1), Commission of a Serious Offense, dated 2 March 2012, the separation authority, having reviewed the applicant's separation packet and careful consideration of all matters, directed that the applicant be separated from the Army prior to the expiration of their current term of service. The commanding general directed the applicant's service be characterized as General (Under Honorable Conditions).

(9) On 15 March 2012, the applicant was discharged accordingly, the DD Form 214 (Certificate of Release or Discharge from Active Duty) provides the applicant completed 2 years, and 27 days of net active service this period. They did not complete their full 3-year, 19-week contractual enlistment obligation. The DD Form 214 shows in –

- item 4a (Grade, Rate or Rank) – Private
- item 4b (Pay Grade) – E-1
- item 12i (Effective Date of Pay Grade) – 26 January 2012
- item 24 (Characterization of Service) – General (Under Honorable Conditions)
- item 28 (Narrative Reason for Separation) – Misconduct (Absence Without Leave)

- item 29 (Dates of Time Lost During This Period) – 30 November 2011 – 13 January 2012

i. Lost Time / Mode of Return: 30 November 2011 – 13 January 2012 / Apprehended by Civil Authorities

j. Behavioral Health Condition(s):

(1) Applicant provided: Department of Veterans Affairs (VA) Rating Decision, reflecting service connection for PTSD (also claimed as depression, alcohol abuse, anxiety condition, and mental disease) granted with an evaluation of 70-percent, with an effective date of 19 October 2023.

(2) AMHRR Listed: Report of Mental Status Evaluation as described in previous paragraph 4h(3).

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- DD Form 149 (Application for Correction of Military Record under the Provisions of Title 10, U.S. Code, Section 1552)
- VA Letter with attached Rating Decision

6. POST SERVICE ACCOMPLISHMENTS: None submitted with the application.

7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):

a. Title 10, U.S. Code, Section 1553, (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, Title 10 U.S. Code, Section 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 (DoD) 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; Title 10 U.S. Code; Section 1553 and DoD Directive 1332.41 and DoD Instruction 1332.28.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), dated 6 September 2011, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(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) A Under Other Than Honorable Conditions Discharge is an administrative separation from the Service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial.

(4) Chapter 14 (Separation for Misconduct) established policy and prescribed procedures for separating members for misconduct. 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 14-12c (Commission of a Service Offense), stated a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

(5) Chapter 15 (Secretarial Plenary Authority), currently in effect, 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 "JKD" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 14-12c(1), misconduct (Absence Without Leave).

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 DoD Instruction 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.

g. Manual for Courts-Martial, United States (2008 Edition) stated, military law consists of the statutes governing the military establishment and regulations issued thereunder, the constitutional powers of the President and regulations issued thereunder, and the inherent authority of military commanders. Military law includes jurisdiction exercised by courts-martial and the jurisdiction exercised by commanders with respect to nonjudicial punishment. The

purpose of military law is to promote justice, to assist in maintaining good order and discipline in the Armed Forces. Appendix 12 (Maximum Punishment Chart) Manual for Courts-Martial shows the maximum punishments include punitive discharge for violating the following Article 86 (Absence Without Leave).

8. SUMMARY OF FACT(S):

a. The Army Discharge Review Board considers applications for upgrade as instructed by DoD Instruction 1332.28.

b. The available evidence reflects the applicant's absence with leave from 30 November 2011 through 12 January 2012; and was involuntarily discharge from the U.S. Army. The DD Form 214 provides the applicant was discharged with a character of service of general (under honorable conditions) for misconduct, (Absence Without Leave). They completed 2 years and 27 days of net active service this period; however, they did not complete their 3-year, 19-week contractual enlistment obligation.

c. Chapter 14 establishes policy and prescribes procedures for separation members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is 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.

d. The applicant's AMHRR reflects documentation of a diagnosis of Adjustment Disorder with anxiety and depressed mood. The applicant provided VA evidence of reflecting service connection for PTSD (also claimed as depression, alcohol abuse, anxiety condition, and mental disease) granted with an evaluation of 70-percent, with an effective date of 19 October 2023.

e. Published DoD 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: the applicant was diagnosed in-service with an Adjustment Disorder with Anxiety and Depressed Mood with reported combat symptoms. Post-service, he is service connected for combat related PTSD.

(2) Did the condition exist, or experience occur during military service? **Yes.** The applicant was diagnosed in-service with an Adjustment Disorder with Anxiety and Depressed Mood with reported combat symptoms.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that given the trauma occurred before the AWOL and nexus between trauma and avoidance, the basis is mitigated.

(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: None

c. Response to Contentions:

(1) The applicant contends during the time of their separation they were dealing with PTSD and anxiety symptoms which they didn't realize they had. They left their unit to seek outside help and had no intention of being absent without leave. 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 Adjustment Disorder with Anxiety and Depressed Mood with reported combat symptoms fully outweighing the applicant's AWOL basis for separation.

(2) The applicant contends they were having difficulty sleeping, they were not eating, and depression started to take its toll. They were afraid of what might be prescribed to them if they used military treatment. 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 Adjustment Disorder with Anxiety and Depressed Mood with reported combat symptoms fully outweighing the applicant's AWOL basis for separation.

(3) The applicant contends their actions were not a representation of who they are and was as a Soldier. They have grown and learned from the incident and seek a change in their character of service as well as the narrative reason for separation. 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 Adjustment Disorder with Anxiety and Depressed Mood with reported combat symptoms fully outweighing the applicant's AWOL basis for separation.

(4) The applicant contents they would like nothing more than to move past this incident and even honored to serve again if possible. The Board acknowledged this contention.

(5) The applicant contends they would like to utilize their educational benefits. The Board 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 determined the discharge is inequitable based on the circumstances surrounding the discharge (Adjustment Disorder with Anxiety and Depressed Mood diagnoses) and the applicant's length and quality of service, to include combat service. 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.

e. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Adjustment Disorder with Anxiety and Depressed Mood with reported combat symptoms outweighed the applicant's misconduct of AWOL. 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.

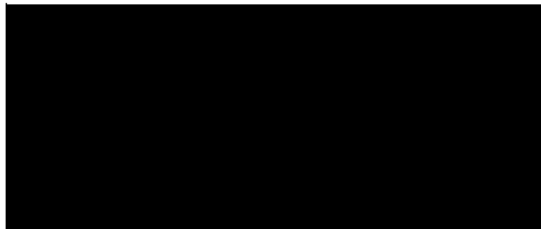
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

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:

9/26/2024



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