

**1. Applicant's Name:** [REDACTED]**a. Application Date:** 5 November 2021**b. Date Received:** 5 November 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 a narrative reason change.

The applicant seeks relief contending, in effect, the applicant was not treated fairly by the chain of command. The applicant unfairly received non-judicial punishment on two separate occasions. If not for the actions of those in the applicant's chain of command the applicant would have completed the contractual obligation or would have been medically discharged. The applicant states the applicant received a letter of recommendation from Command Sergeant Major (CSM) A apologizing for the actions of the chain of command.

**b. Board Type and Decision:** In a personal appearance conducted on 17 March 2025, and by a 4-1 vote, the majority of the board members determined that the characterization is inequitable based on the circumstances surrounding the discharge (PTSD and Other Behavioral Health (OBH) conditions). 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 RE code will not change, as the Board determined the RE Code is proper and equitable.

*Please see the **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:** 6 January 2010

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 12 December 2009

**(2) Basis for Separation:** The applicant was informed of the following reasons: On 4 June 2008, the applicant was absent without leave (AWOL) until 18 June 2009. On 22 September 2009, the applicant was AWOL until 24 September 2009. On 13 November 2009 and 28 November 2009, the applicant failed to go to a Physical Therapy appointment and extra duty.

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

**(4) Legal Consultation Date:** 17 December 2009

**(5) Administrative Separation Board:** NA

**(6) Separation Decision Date / Characterization:** 22 December 2009 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 12 September 2008 / 3 years, 21 weeks

**b. Age at Enlistment / Education / GT Score:** 20 / HS Graduate / 101

**c. Highest Grade Achieved / MOS / Total Service:** E-2 / 11B10, Infantryman / 1 year, 3 months, 7 days

**d. Prior Service / Characterizations:** None

**e. Overseas Service / Combat Service:** None

**f. Awards and Decorations:** NDSM, GWOTSM, ASR

**g. Performance Ratings:** NA

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

**(1)** FG Article 15, 14 July 2009, reflects the applicant was AWOL from 4 June 2009 until 18 June 2009. The punishment consisted of reduction to the grade of E-1; forfeiture of \$699 pay per month for two months, suspended, to be automatically remitted if not vacated before 11 December 2009; 45 days of extra duty, suspended, to be automatically remitted if not vacated before 11 December 2009; and an oral reprimand.

**(2)** FG Article 15, 10 November 2009, reflects the applicant was AWOL from 22 September 2009 until 24 September 2009. The punishment consisted of forfeiture of \$699 pay per month for two months, suspended, to be automatically remitted if not vacated before 14 May 2010; 45 days of extra duty; restriction for 45 days; and an oral reprimand.

**(3)** FG Article 15, 15 December 2009, reflects the applicant failed to go at the prescribed time to the appointed place of duty on or about 13 November 2009, 28 November 2009, and 5 December 2009. The punishment consisted of forfeiture of \$699 pay per month for one month, suspended, to be automatically remitted if not vacated by 15 June 2009; extra duty and restriction for 45 days; and an oral reprimand.

**(4)** Report of Mental Status Evaluation (MSE), 8 October 2009, reflects the applicant had the mental capacity to understand and participate in the proceedings and was mentally responsible. There was no evidence of a cognitive disorder or severe mental disease or defect. From a psychiatric perspective, the applicant met retention requirements, was fit for duty, and commanded full capacity.

**i. Lost Time / Mode of Return:** AWOL X 18 days (4 June 2009 – 18 June 2009), (22 September 2009 – 24 September 2009) / Returned

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:** On-Line Application**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.

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 "JKA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12b, pattern of misconduct.

**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 and a narrative reason change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant requests the narrative reason for the discharge be changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12b, AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Pattern of Misconduct," and the separation code is "JKA." 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 listed in tables 2-2 or 2-2 of AR 635-5-1, Separation Program Designator (SPD) Codes. The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant contends the applicant was not treated fairly by the chain of command and the applicant unfairly received non-judicial punishment on two separate occasions.

The applicant states if not for the actions of those in the applicant's chain of command the applicant would have completed the contractual obligation or would have been medically discharged. The applicant also states the applicant received a letter of recommendation from CSM A apologizing for the actions of the chain of command, the applicant did not provide a copy of this letter.

**9. DOCUMENTS / TESTIMONY PRESENTED DURING PERSONAL APPEARANCE:** In addition to the evidence in the record, the Board carefully considered the additional document(s) and testimony presented by the applicant at the personal appearance hearing.

- a. The applicant submitted the following additional document(s):
- b. The applicant presented the following additional contention(s):
- c. Counsel / Witness(es) / Observer(s):

**10. BOARD DISCUSSION AND DETERMINATION:**

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

**(1)** Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: PTSD, MDD, Depression, Adjustment Disorder, Anxiety Disorder NOS.

**(2)** Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 70 percent SC for PTSD.

**(3)** Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that a review of the available information reflects the applicant has BH conditions that mitigates his misconduct as outlined in the BoS. The applicant is 70 percent SC for PTSD and has additional diagnosis of Adjustment Disorder w/Disturbance of Emotion and Conduct, Depression, and Anxiety Disorder NOS. Given the nexus between PTSD and avoidance, PTSD and problems with authority, and the nexus between Depression and social withdrawal, and decreased motivation, the applicant misconduct characterized by AWOL and FTR is mitigated by his SC BH condition, and therefore upgrade based on medical mitigation is supported.

**(4)** Does the condition or experience outweigh the discharge? **Yes.** The Board concurred with the opinion of the Board's Medical Advisor and applied liberal consideration. The Board found that the applicant's PTSD and OBH outweighed the applicant's misconduct (multiple AWOLs and FTR).

**b.** Response to Contention(s): The applicant contends the applicant was not treated fairly by the chain of command and the applicant unfairly received non-judicial punishment on two separate occasions.

The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade granted based on the applicant's PTSD and OBH that outweighed the applicant's misconduct (AWOLs and FTR).

**c.** The Board determined the discharge is inequitable based on the applicant's PTSD and OBH that outweighed the misconduct (AWOLs and FTR). The applicant has exhausted their appeal options available with ADRB. However, the applicant may still apply to the Army Board for Correction of Military Records. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

**d.** Rationale for Decision:

**(1)** The Board voted to change the applicant's characterization of service to Honorable because the applicant's PTSD and OBH outweighed the misconduct (multiple AWOLs and FTR). 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. Therefore, the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

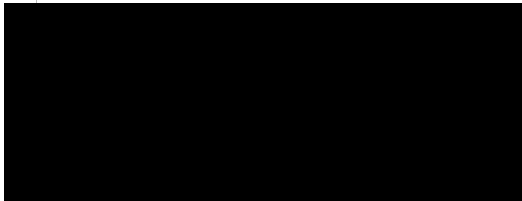
**(3)** The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**11. 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:**

3/26/2025



**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