

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 19 October 2021
- b. **Date Received:** 1 November 2021
- c. **Counsel:** None

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:

a. **Applicant Requests:** The current characterization of service for the period under review is general (under honorable conditions). The applicant requests an upgrade to honorable.

b. **Applicant Contention(s)/Issue(s):** The applicant seeks relief, contending in effect, a review and correction of the discharge characterization is warranted.

c. **Board Type and Decision:** In a records review conducted on 4 September 2025, and by a 5-0 vote, the Board determined the discharge was inequitable. It granted relief by upgrading the characterization of service to Honorable, changing the separation authority to AR 635-200, paragraph 14-12a, and revising the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN. The Board also determined that the RE Code was proper and equitable and voted to leave it unchanged. Please see **Board Discussion and Determination** section for more detail regarding the Board's decision. Board member names are available upon request.

3. DISCHARGE DETAILS:

a. **Reason / Authority / Codes / Characterization:** Misconduct (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 23 July 2010

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 1 July 2010

(2) **Basis for Separation:** The applicant was informed of the following reasons for separation: On multiple occasions between 2 April 2010 and 15 June 2010, at or near Fort Lee, Virginia, the applicant knowingly disobeyed a lawful order from the company commander to sign out on the sick-call log at Company B, 16th Ordnance Battalion when going to sick-call; on or about 19 June 2010, at or near Fort Lee, Virginia, the applicant knowingly disobeyed a lawful written order, specifically Company B, 16th Ordnance Battalion Policy Letter #B-5, Paragraph 2, 9 April 2010, by wrongfully failing to lock the wall locker with a key type lock; and on multiple occasions between 2 April 2010 and 15 June 2010, at or near Fort Lee, Virginia, the applicant feigned illnesses to avoid the duty of attending Advanced Individual Training (AIT), in violation of Article 115, UCMJ. In consideration of the characterization of service, the following were also noted: on 3 June 2010, the applicant was counseled for sleeping in the day room during unauthorized hours; on 16 June 2010, the applicant was counseled for failing to report at the prescribed time to military occupational specialty (MOS) training on 15 June 2010; and on 16 June 2010, the applicant was counseled for failing to report at the prescribed time to formation on 16 June 2010.

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

(4) **Legal Consultation Date:** 6 July 2010

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

(6) **Separation Decision Date / Characterization:** 13 July 2010 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. **Date / Period of Enlistment Under Review:** 6 October 2009 / 4 years / The applicant's DD Form 214, block 12a, reflects the applicant entered Active Duty on 6 October 2009, however, the applicant's enlistment contract reflects entrance on Active Duty on 7 October 2009.

b. **Age at Enlistment / Education / GT Score:** 19 / High School Graduate / 88

c. **Highest Grade Achieved / MOS / Total Service:** E-1 / None / 9 months, 18 days

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

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

f. **Awards and Decorations:** None / The applicant's Enlisted Record Brief reflects an award of the NDSM; however, the award is not reflected on the applicant's DD Form 214.

g. **Performance Ratings:** NA

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

(1) Two Personnel Action forms indicate the applicant's duty status changed as follows:

(a) From Present for Duty (PDY) to Hospital (HOS), effective 8 April 2010;

(b) From HOS to PDY, effective 20 April 2010.

(2) Bravo Company 16th Ordnance Battalion, Fort Lee, VA memorandum for record, subject [the applicant], 18 May 2010, reflects the commander documented the following concerns regarding the applicant: 1SG H. administered verbal counseling sessions addressing the applicant's poor attitude, lack of effort in training and Soldier activities, and suspicions of malingering after frequent reports to sick call for various illnesses, which prevented attendance in class. Issues began when the applicant signed in for sick call on 7 April 2010 due to mental health concerns, stating discomfort around large groups hindered the ability to learn. The applicant was hospitalized at Southside Regional for 12 days for mental health reasons; however, the command considered these issues unfounded, as the applicant had not started class and could not determine if class size would have an effect. Repeated medical appointments resulting from sick call visits on 2, 6, 7, 21, 22, and 23 April 2010, and 4 May 2010, prevented the applicant from starting class. The command observed the applicant changed behavior to persuade different agencies or personnel. The condition was worse than perceived, as evidenced by acting timid and depressed during visits at Southside Regional, a change confirmed by the counselor. Additionally, at a "CMH" command referral appointment, the applicant falsely claimed to be a walk-in to seek further medical care for an additional illness. The command concluded the applicant demonstrated an unwillingness to adapt to the

environment, expecting the Army to accommodate personal needs rather than adapting to the Nation's needs.

(3) Bravo Company 16th Ordnance Battalion, Fort Lee, VA memorandum for record, subject [the applicant], 15 July 2010, reflects the company commander documented the applicant was admitted to Southside Regional Medical Facility for mental health concerns and disclosed a history of childhood sexual assault during a visit from command. The applicant received group and individual counseling, was advised to attend support sessions at the James House, and was scheduled for ongoing counseling at Fort Lee "CMH". The applicant did not attend the James House sessions due to discomfort but continued with other counseling and mental health assistance. After a second hospitalization for suicidal ideation, the applicant was discharged for not cooperating with rehabilitation. Ongoing counseling focused on anxiety, depression, and frustration with AIT and family issues, with no further mention of the sexual assault in subsequent sessions or follow-ups.

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

j. **Behavioral Health Condition(s):** The following documents have been provided to the ARBA Medical Advisor, if applicable. See "**Board Discussion and Determination**" for Medical Advisor Details.

(1) **Applicant provided:** None

(2) **AMHRR Listed:**

(a) Southside Regional Medical Center Medication Reconciliation form, 5 May 2010, reflects the applicant was prescribed Zofran. This medication was to be continued after discharge.

(b) Report of Medical History, 7 May 2010, reflects the applicant was admitted to the mental hospital for stress, depression, and anxiety.

5. **APPLICANT-PROVIDED EVIDENCE:** Application for the Review of Discharge.

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. Office, Secretary of Defense memorandum (Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder), 3 September 2014, directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

c. Office, Under Secretary of Defense memorandum (Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment), 25 August 2017 issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

d. Office, Under Secretary of Defense memorandum (Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations), 25 July 2018 issued guidance to Military DRBs and BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

(1) This guidance does not mandate relief but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, DRBs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

(2) Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

e. 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.

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:

- 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.

g. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) 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.

(a) 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.

(b) 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.

(2) 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. Paragraph 14-12c, states 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.

(3) 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. If Secretarial Authority is granted normally correct the record to show the following:

- Separation Authority: Army Regulation 635-200, Chapter 15
- Separation Code: JFF
- Reenlistment Code: RE-1
- Narrative Reason for Separation: Secretarial Plenary Authority
- Character of Service: Honorable

h. 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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, misconduct (serious offense).

8. SUMMARY OF FACT(S): Standard of Review. 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 Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

b. The applicant was informed of the following reasons for separation: On multiple occasions between 2 April 2010 and 15 June 2010, at or near Fort Lee, Virginia, the applicant knowingly disobeyed a lawful order from the company commander to sign out on the sick-call log at Company B, 16th Ordnance Battalion when going to sick-call; on or about 19 June 2010, at or near Fort Lee, Virginia, the applicant knowingly disobeyed a lawful written order, specifically Company B, 16th Ordnance Battalion Policy Letter #B-5, Paragraph 2, 9 April 2010, by wrongfully failing to lock the wall locker with a key type lock; and on multiple occasions between 2 April 2010 and 15 June 2010, at or near Fort Lee, Virginia, the applicant feigned illnesses to avoid the duty of attending Advanced Individual Training (AIT), in violation of Article 115, UCMJ. In consideration of the characterization of service, the following were also noted: on 3 June 2010, the applicant was counseled for sleeping in the day room during unauthorized hours; on 16 June 2010, the applicant was counseled for failing to report at the prescribed time to military occupational specialty (MOS) training on 15 June 2010; and on 16 June 2010, the applicant was counseled for failing to report at the prescribed time to formation on 16 June 2010. The applicant was separated in accordance with AR 635-200, chapter 14-12c with a general (under honorable conditions) characterization of service.

c. The applicant contends a review and correction of the discharge characterization is warranted. The applicant provided no supporting evidence beyond their statement to support the contention. The applicant received a 'de novo' review as part of the Kennedy v. McCarthy Stipulation and Agreement of Settlement, certified on 26 April 2021, wherein the board applied the Department of Defense guidance regarding liberal consideration of possible mitigating factors, such as PTSD, TBI, and other related mental health conditions. The AMHRR does not indicate or provide evidence of arbitrary or capricious actions by the command.

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: Adjustment Disorder, Major Depressive Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was diagnosed in service with an Adjustment Disorder and Major Depressive Disorder, and the VA has service connected the Major

Depressive Disorder.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that there is evidence of BH conditions. The applicant was diagnosed in service with an Adjustment Disorder and Major Depressive Disorder, and the VA has service connected the Major Depressive Disorder. Major Depressive Disorder has a nexus with decreased concentration, sleep difficulties, low energy, avoidance, and somatic complaints. The medical record reveals that the applicant's Major Depressive Disorder also interfered with performing daily functions. For these reasons, it is likely that the applicant's Major Depressive Disorder contributed to all the misconduct in the basis of separation to include not signing out on the sick-call log, failing to lock a wall locker, feigning illnesses, sleeping in the day room during unauthorized hours, and FTRs.

(4) Does the condition or experience outweigh the discharge? **Yes.** Based on liberal consideration of all evidence before the Board, including the service-connected diagnosis of Major Depressive Disorder and its documented impact on the applicant's functioning, the ADRB determined that the condition outweighed the basis for separation and granted relief.

b. Prior Decisions Cited: None

c. Response to Contention: The applicant contends a review and correction of the discharge characterization is warranted. The Board considered this contention and determined that a correction of the discharge characterization was warranted based on the mitigating effects of the applicant's Major Depressive Disorder.

d. The Board determined the discharge is inequitable based on the applicant's Major Depressive Disorder. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to honorable, changed the separation authority to AR 635-200, Chapter 14-12a, and the narrative reason for separation to Misconduct (Minor Infraction), with a corresponding separation code to JKN. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to applicant's BH diagnoses. 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.

e. Rationale for Decision:

(1) Published Department of Defense guidance indicates the guidance is not intended to interfere or impede on the Board's statutory independence. The Board determines the relative weight of the action that was the basis for the discharge and whether it supports relief or not. In reaching its determination, the Board considers the application, available records and any supporting documents included with the application.

(2) The Board voted to upgrade the applicant's characterization of service to Honorable because, after applying liberal consideration to all the evidence before it, including the VA-confirmed diagnosis of Major Depressive Disorder, the applicant's behavioral health condition was found to mitigate the offenses of failing to sign out on the sick-call log, failing to secure a wall locker, feigning illness, unauthorized sleeping in the day room, and multiple failures to report.

(3) The Board voted to change the applicant's reason for discharge to Misconduct (Minor Infraction) with the accompanying SPD code of JKN, under the same pretexts.

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(4) 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 / Separation Order: 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: No Change

Authenticating Official:

9/16/2025



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
FTR – Failure to Report

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