

1. Applicant's Name: [REDACTED]

a. **Application Date:** 21 March 2022

b. **Date Received:** 28 March 2022

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 requests relief contending, they did not receive a fair and impartial discharge from their company commander and acting first sergeant, considering there were multiple Soldiers in the same company the applicant's rank and higher who had been convicted of DUIs (driving under the influence of alcohol) who had not been discharged based on the particular incident. The applicant also was not charged with a DUI but a DWAI (driving while ability impaired) which is technically different from the charge they charged the applicant for. They completed 40 months of service prior to this one sole incident and during their whole time before had not received any adverse actions against them for misconduct.

c. **Board Type and Decision:** In a records review conducted on 27 January 2026, and by a 3-0 vote, the Board determined the discharge is inequitable based on the applicant's PTSD mitigating the one-time DUI. 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. 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 November 2021

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 2 November 2021

(2) **Basis for Separation:** On 14 May 2021, an installation Military Police Officer apprehended the applicant for driving under the influence of alcohol (DUI), with a blood alcohol content (BAC) of .154%.

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

(4) **Legal Consultation Date:** 4 November 2021 / The applicant waived counsel and declined to provide a statement on their behalf.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 10 November 2021 / General
(Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment Under Review: 28 August 2017 / 3 years, 16 weeks; The applicant executed a 12-month extension, updating their expiration term of service (ETS) to 17 December 2021.

b. Age at Enlistment / Education / GT Score: 18 / High School Diploma / 115

c. Highest Grade Achieved / MOS / Total Service: E-5 / 11B20 Infantryman / 4 years, 2 months, and 26 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq, 8 months, 13 days (2019)

f. Awards and Decorations: ARCOM, AAM-2, AGCM, NDSM, GWOTSM, NCOPDR, ASR, OSR, IRCM-CS

g. Performance Ratings: Sergeant, 1 August 2020 – 31 July 2021 / Not Qualified

h. Disciplinary Action(s) / Evidentiary Record: The Enlisted Record Brief provides the applicant was flagged (Suspend Favorable Personnel Actions (FLAG)) on 14 and 18 May 2021, for adverse action (AA) and alcohol abuse adverse action (VA); and on 26 July 2021, for field-initiated involuntary separation (BA). On 22 July 2021, the applicant received an event-oriented counseling for failing to wear a face covering. The applicant disagree with the counseling, stating they were not at the brief prior to this incident due to appointments and had not received any counseling's in the past two months by their first line on this topic.

(1) A Report of Mental Status Evaluation, dated 11 August 2021, reflects the applicant was psychiatrically cleared for separation. The applicant was evaluated by Behavioral Health (BH) and screened for Posttraumatic Stress Disorder (PTSD), depression, Traumatic Brain Injury (TBI), substance misuse, and sexual trauma. The evaluation identified other problems related to employment associated with a pending administrative separation, and no further BH follow-up was recommended.

(2) On 7 September 2021, the applicant received nonjudicial punishment (NJP) in violation of Article 92, Uniformed Code of Military Justice (UCMJ) for not wearing a mask in the building, which failing to do so could have put another Soldiers' health at risk, on or about 22 July 2021. Their punishment imposed suspended forfeitures of \$663.00 pay; suspended restriction for 7 days; and oral reprimand.

(3) A Report of Medical Examination, dated 9 September 2021, provides the applicant was qualified for separation without any diagnoses or recommendations identified.

(4) A General Officer Memorandum of Reprimand (GOMOR), dated 21 September 2021, imposed a reprimand for operating a motor vehicle while under the influence of alcohol (DUI). On 14 May 2021, a Military Police Officer was apprehended for DUI and a blood alcohol

test established their blood alcohol content at .154%. The applicant declined to provide rebuttal matters on their behalf and the reprimand was directed for permanent filing in the Army Military Human Resource Record (AMHRR).

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:** Effective 16 May 2023, the applicant was granted a 70% service-connected disability rating for Posttraumatic Stress Disorder (PTSD) with Alcohol Use Disorder, Severe, in early remission (also claimed as sleep disturbances, depression).

(2) **AMHRR provided:** None

5. APPLICANT-PROVIDED EVIDENCE: Two Applications for the Review of Discharge; Veterans Affairs Rating Decision

6. POST SERVICE ACCOMPLISHMENTS: The applicant has been service-connected through the VA.

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

a. 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.

b. 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.

c. 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.

d. 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.

e. 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 waivable and nonwaivable 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 waivable. 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.

f. 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. It states:

(a) 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) 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. 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, 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.

g. 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 14-12C, Misconduct (Serious Offense).

h. Manual for Courts-Martial (2019 Edition), United States, states 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 orders and discipline in the Armed Forces. **Article 113** (drunk or reckless operation of vehicle) states in the subparagraph, the maximum punishment consists of a bad conduct discharge, forfeiture of all pay and allowances, and confinement for six months.

i. Title 38, U.S. Code, Sections 1110 and 1131, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The

VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered, medically unfitting for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by the agency.

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.

(1) An authenticated DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged under the provisions of AR 635-200, Chapter 14-12C for misconduct (serious offense) with a general (under honorable conditions) characterization of service. After being flagged for involuntary separation, in September 2021, the applicant received NJP for failing to obey a lawful order (Article 92, UCMJ) to wear a face mask, and received an oral reprimand. A GOMOR was imposed for DUI with a BAC of 0.154% which was permanently filed in their AMHRR. The applicant elected to waive legal and declined to provide statement on their behalf. They served 4 years, 2 months, and 26 days of a 4 year-16 week contractual obligation.

(2) The applicant contends, they did not receive a fair and impartial discharge from their company commander and acting first sergeant, considering there were multiple Soldiers in the same company the applicant's rank and higher who had been convicted of DUIs (driving under the influence of alcohol) who had not been discharged based on the particular incident. The applicant also was not charged with a DUI but a DWAI (driving while ability impaired) which is technically different from the charge they chaptered the applicant for. They completed 40 months of service prior to this one sole incident and during their whole time before had not received any adverse actions against them for misconduct.

(3) Between August and September 2021, the applicant completed separation exams. They were psychiatrically cleared for administrative proceedings with no diagnoses or recommendations listed, with the BH provider noting employment-related problems. They were also medically qualified for separation with no defects or recommendations listed. Effective 16 May 2023, the applicant was granted a 70% service-connected disability rating for PTSD with Alcohol Use Disorder, Severe, in early remission (also claimed as sleep disturbances, depression).

b. 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.

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.** 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

(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 although the applicant's in-service records are void of any non-substance-related BH treatment, the applicant is 70 percent SC for PTSD by the VA. The PTSD DBQ documents the applicant experienced trauma at age 15 (friend died in DUI accident) that was exacerbated during TIS. In applying liberal consideration, the applicant's PTSD is conceded as having existed in-service. Therefore, given the nexus between the applicant's SC BH condition and the use of substances to self-medicate, the applicant's misconduct characterized by DUI is mitigated and 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, a voting member. As a result, the ADRB applied liberal consideration and found that the applicant's PTSD outweighed the DUI basis for separation for the aforementioned reason(s).

b. Prior Decisions Cited: N/A

c. Response to Contention(s):

(1) The applicant is contending, they were not charged with a DUI but a DWAI (driving while ability impaired) which is technically different from the charge they chaptered the applicant for.

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 PTSD outweighing the applicant's DUI basis for separation.

(2) The applicant contends, they did not receive a fair and impartial discharge from their company commander and acting first sergeant, considering there were multiple Soldiers in the same company the applicant's rank and higher who had been convicted of DUIs (driving under the influence of alcohol) who had not been discharged based on the particular incident. 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 PTSD outweighing the applicant's DUI basis for separation.

(3) The applicant contends, 40 months of service prior to this one sole incident and during their whole time before had not received any adverse actions against them for misconduct.

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 PTSD outweighing the applicant's DUI basis for separation.

d. The Board determined the discharge is inequitable based on the applicant's PTSD mitigating the one-time DUI. 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.

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 change the applicant's characterization of service to Honorable because the applicant's PTSD mitigated the applicant's misconduct of DUI. Thus, the prior characterization is no longer appropriate.

(3) 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.

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

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**AR20220003359****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, paragraph 14-12a

Authenticating Official:

2/4/2026

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
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
UOTHHC – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs