

1. Applicant's Name: [REDACTED]

- a. **Application Date:** 12 January 2022
- b. **Date Received:** 28 February 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 seeks relief contending, in effect, previously applying to the ADRB and received a letter indicating new laws are in place.

c. **Board Type and Decision:** In a records review conducted on 9 September 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's mood disorder outweighed the offenses of DUI and failures to report. 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. 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:** 3 June 2009

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 5 May 2009

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant was physically in control of a passenger car while under the influence of alcohol on or about 22 December 2007, for which the applicant received an Article 15. The applicant failed to report to the appointed place of duty on or about the following days: 24 October and 19 November 2008. The applicant was physically in control of a passenger car while under the influence of alcohol on or about 2 January 2009.

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

(4) **Legal Consultation Date:** 6 May 2009

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

(6) **Separation Decision Date / Characterization:** 26 May 2009 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment/Reenlistment Under Review: 19 October 2007 / 3 years, 18 weeks / The applicant has a ETS as supported by the applicant's Enlisted Record Brief (ERB) of 20 May 2011, however, the applicant's reenlistment contract of extension is not available for review.

b. Age at Enlistment / Education / GT Score: 21 / High School Graduate / 93

c. Highest Grade Achieved / MOS / Total Service: E-4 / 11B1O, Infantryman / 4 years, 7 months, 15 days

d. Prior Service / Characterizations: The applicant's reenlistment contract of extension is not available for review.

e. Overseas Service / Combat Service: Germany, SWA / Iraq (14 January 2006 – 13 February 2007; 29 April 2008 – 3 July 2008)

f. Awards and Decorations: ARCOM, AAM, AGCM, NDSM, GWOTSM, ICM-2CS, ASR, OSR-3, CIB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) FG Record of Proceedings under Article 15, Uniform Code of Military Justice, 29 January 2008, indicates on or about 22 December 2007, at the location of Georgia highway, 144 Gate 5, physically control a vehicle, to wit: a passenger car, while the alcohol concentration in the applicant's breath was 0.091 grams of alcohol per 210 liters of breath or greater as shown by chemical analysis. The imposed punishment included a reduction to E-3, forfeiture of \$890, along with 30 days of extra duty.

(2) Four Developmental Counseling Forms document instances of the applicant failing to show up for formation and work call at the appointed time; failure to obey regulation; Driving under the influence.

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:** Department of Veterans Affairs letter, 10 August 2020, reflects the applicant has been seen by A. S., MD, the last three years for Mental Health care for depression and anxiety disorders. The applicant is 60 percent service connected.

(2) **AMHRR provided:** Mental Status Evaluation (MSE), 4 March 2009, indicates the applicant was cleared for any administrative actions the command deemed appropriate. The applicant was mentally responsible, demonstrated clear thinking, and had the capacity to understand and participate in the proceedings. The applicant was diagnosed with: Axis I: Alcoholism.

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; two letters of support and VA letter.

6. POST SERVICE ACCOMPLISHMENTS: The applicant has sought treatment for mental health.

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.
- 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. 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.

(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: RE1
- Narrative Reason for Separation: Secretarial Plenary Authority
- Character of Service: Honorable

(4) 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 "JKK" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, 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 available evidence reflects the applicant was notified of the intent to discharge them from the U.S. Army for being physically in control of a passenger car while under the influence of alcohol on or about 22 December 2007, for which the applicant received an Article 15. The applicant failed to report to appointed place of duty on or about the following days: 24 October 2008 and 19 November 2008. The applicant was physically in control of a passenger car while under the influence of alcohol on or about 2 January 2009.

c. The applicant provided a Department of Veterans Affairs letter, 10 August 2020, reflecting the applicant has been seen by A. S., MD, the last three years for Mental Health care for depression and anxiety disorders. The applicant is 60 percent service connected. The AMHRR includes a Mental Status Evaluation (MSE), 4 March 2009, indicating the applicant was cleared for any administrative actions the command deemed appropriate. The applicant was mentally responsible, demonstrated clear thinking, and had the capacity to understand and participate in the proceedings. The applicant was diagnosed with: Axis I: Alcoholism. The separation authority considered the MSE.

d. The third-party statements provided with the application reflect the applicant's outstanding leadership abilities and the troubles with drinking after returning from Iraq.

e. The applicant contends seeking treatment for mental health. The Army Discharge Review Board has the authority to consider post-service factors when reviewing discharge recharacterization requests. However, no law or regulation permits upgrading an unfavorable discharge solely due to time passed or good conduct in civilian life. The Board evaluates each case individually to determine whether post-service achievements indicate previous in-service misconduct was an anomaly rather than a reflection of the applicant's overall character.

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: Mood Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 30 percent SC for Mood 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 a review of the available information reflects the applicant has a BH condition that mitigates their misconduct as outlined in the BoS. They are 30 percent SC for Mood Disorder and given the nexus between Mood Disorder and the use of substances to self-medicate, avoidant behavior, social isolation, and decreased motivation, their misconduct characterized by DUIx2 and FTRx2 is mitigated by their SC BH condition and upgrade based on medical mitigation is supported.

(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 Contention(s):

(1) The applicant provided a Department of Veterans Affairs letter, 10 August 2020, reflecting the applicant has been seen by A. S., MD, the last three years for Mental Health care for depression and anxiety disorders. The Board considered this contention and acknowledged

the applicant's ongoing treatment for depression and anxiety, which supports the presence of a mitigating behavioral health condition.

(2) The third-party statements provided with the application reflect the applicant's outstanding leadership abilities and the troubles with drinking after returning from Iraq. The Board considered this contention and found the statements credible, reinforcing the applicant's leadership qualities and the behavioral health challenges following deployment.

(3) The applicant contends seeking treatment for mental health. The Board considered this contention and recognized the applicant's efforts to seek treatment as consistent with the presence of a service-connected Mood Disorder that contributed to the misconduct.

d. The Board determined the discharge was inequitable, as the applicant's service-connected Mood Disorder significantly mitigated the misconduct outlined in the Basis of Separation. Accordingly, the Board voted to grant relief by upgrading the characterization of service to Honorable and directed the issuance of a new DD Form 214 reflecting separation authority under AR 635-200, paragraph 14-12a, narrative reason as Misconduct (Minor Infractions), and separation code JKN. The Board found the RE Code was proper and equitable and voted not to change it.

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 discharge to Honorable, finding that the misconduct, two DUIs and two failures to report, was substantially mitigated by a service-connected Mood Disorder diagnosed during service and supported by ongoing treatment for depression and anxiety.

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

(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

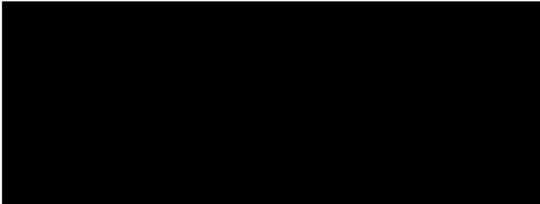
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10. BOARD ACTION DIRECTED:

- 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: AR 635-200, paragraph 14-12a

Authenticating Official:

9/23/2025



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