

1. **Applicant's Name:** [REDACTED]
  - a. **Application Date:** 22 November 2021
  - b. **Date Received:** 3 February 2022
  - c. **Counsel:** [REDACTED]

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

a. **Applicant Requests:** The current characterization of service for the period under review is under other than honorable conditions. The applicant, through counsel, requests an upgrade of the character of service to either general (under honorable conditions) or honorable, a change to the narrative reason for separation and separation program designator (SPD) code, and a change to the reentry (RE) code.

b. **Applicant Contention(s) / Issue(s):** The applicant, through counsel, requests relief contending, in effect, the applicant received an other than honorable conditions character of service due to conduct directly linked to diagnosed Post-Traumatic Stress Disorder (PTSD) and Traumatic Brain Injury (TBI). These conditions resulted from severe traumatic experiences and blast exposures during a combat deployment in Iraq, as well as a motor vehicle accident while on staff duty in Germany. The repeated absences without leave (AWOL) were a direct consequence of symptoms related to PTSD and TBI. Counsel provides a legal brief which further details the applicant's argument.

c. **Board Type and Decision:** In a records review conducted on 21 October 2025, and by a 3-0 vote, the Board determined the discharge is inequitable based on the applicant's diagnosed PTSD and Unspecified Psychosis, which outweighed the offenses of AWOL and Pretrial Confinement. 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:** In Lieu of Trial by Court-Martial / AR 635-200, Chapter 10 / KFS / 4 / Under Other Than Honorable Conditions

b. **Date of Discharge:** 26 June 2007

c. **Separation Facts:**

(1) **Date Charges Preferred / DD Form 458 (Charge Sheet):** NIF

(2) **Legal Consultation Date:** 31 May 2007

**(3) Basis for Separation:** Pursuant to the applicant's voluntary request for discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial.

**(4) CDR / Intermediate CDR Recommended Characterization:** NIF

**(5) Separation Approval Decision Date / Characterization:** 7 June 2007/ Under Other Than Honorable Conditions

**4. SERVICE DETAILS:**

**a. Date / Period of Reenlistment Under Review:** 1 May 2005 / NIF

**b. Age at Enlistment / Education / GT Score:** 25 / HS Graduate / 107

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 19D10, Calvary Scout / 3 years, 10 months, 18 days

**d. Prior Service / Characterizations:** AD, 2 October 2002 - 30 April 2005 / HD

**e. Overseas Service / Combat Service:** Germany, SWA / Iraq 12 January 2004 - 31 March 2005

**f. Awards and Decorations:** AAM, VUA, AGCM, NDSM, GWOTEM, GWOTSM, OSR, CAB

**g. Performance Ratings:** N/A

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

**(1)** Special Court-Martial Order Number 26, 8 August 2007, shows, "Having been arraigned, the proceedings were terminated on 7 June 2007." These orders further show the applicant had been charged with the following offenses:

**(a)** Charge I: Article 85 (Desertion), the specification: The applicant "Did on or about 26 August 2006, without authority and with intent to remain away therefrom permanently, absent himself from his unit... and did remain so absent in desertion until on or about 26 March 2007."

**(b)** Charge II: Article 86 (AWOL), the specification: The applicant "Did on or about 28 July 2006, without authority, absent himself from his unit... and did remain so absent until on or about 17 August 2006."

**(2)** A Report of Mental Status Evaluation (MSE), 5 April 2007, which notes the applicant was deemed to have the mental capacity to understand and participate in proceedings, the applicant was mentally responsible, and the applicant did not have an unfitting diagnosis, the remarks state:

... It appears that SM wants out of the Army and is not motivated for continued service on active duty. SM took an [Minnesota Multiphasic Personality Inventory-2] MMPI-2... the test was invalid due to SM's responding to the questions in an extremely exaggerated manner. [Applicant] endorsed a wide variety of rare symptoms, and therefore most likely falsely claimed psychological problems...

**i. Lost Time / Mode of Return:**

- 20 days (AWOL, 28 July 2006 - 16 August 2006) / Returned to Military Control
- 6 months, 26 days (AWOL, 29 August 2006 - 25 March 2007) / Returned to Military Control
- 82 days (Pretrial Confinement, 4 April 2007 - 24 June 2007) / Release from Confinement

**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:** (Exhibit 1) a Psychologists Report, 18 October 2009, which addresses the applicants PTSD and TBI; (Exhibit 3) Neuropsychology Consult, 27 August 2010, which notes a loss of consciousness and blast exposures; (Exhibit 6) a Department of Veterans Affairs Medical Admission, 22 August 2006, notes endorsements of suicidal ideation; (Exhibit 8) Emergency Room Medical Record, 27 August 2006; Exhibit 14 Overdose Medical Record, 11 April 2007; (Exhibit 15) Inpatient Psychiatry record, 8 September 2008; (Exhibit 16) Psychiatry Attending Inpatient Note, 18 August 2015; and (Exhibit 19) a Psychiatry Note, 16 April 2013 which notes a diagnosis of PTSD

**(2) AMHRR provided:** A Survival Plan, 23 August 2000; and a Physical Profile noting an anxiety disorder and alcohol dependance

**5. APPLICANT-PROVIDED EVIDENCE:** DD Form 293; pro bono agreement; Letter, Veterans Consortium; legal brief in support of application; (Exhibit 2) DD Form 214; (Exhibit 4) Memorandum, Commanders 72-Hour Review of Pretrial Confinement..., 4 April 2007; (Exhibit 5) Developmental Counseling Form, 19 July 2006; (Exhibit 7) Personal Statement, 23 August 2006; (Exhibits 9 - 12) Personnel Actions, 30 August 2006, 29 September 2006, 28 March 2007; (Exhibit 13) Confinement Order, 4 April 2007; (Exhibit 17) Memorandum, Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming PTSD, 3 September 2014; (Exhibit 18) Memorandum, Clarifying Guidance to Military Discharge Review Boards and the 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

**6. POST SERVICE ACCOMPLISHMENTS:** None provided with this 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), 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.

**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.

**(c)** An under other-than-honorable-conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

**(2)** Chapter 10, Discharge in Lieu of Trial by Court Martial is applicable to members who had committed an offense or offenses for which the authorized punishment included a bad conduct, or dishonorable discharge could submit a request for discharge for the good of the service. The request could be submitted at any time after the charges had been preferred. Although an honorable or general discharge was authorized, an under other than honorable conditions discharge was normally considered appropriate, unless the record was so meritorious it would warrant an honorable.

**(a)** After receiving legal counseling, the soldier may elect to submit a request for discharge in lieu of trial by court-martial. The soldier will sign a written request, certifying that they have been counseled, understands their rights, and may receive a discharge under other than honorable conditions.

(b) The following documents will accompany the request for discharge:

- A copy of a Charge Sheet (DD Form 458)
- Report of medical examination and mental status evaluation, if conducted
- A complete copy of all reports of investigation
- Any statement, documents, or other matter considered by the commanding officer in making his/her recommendation, including any information presented for consideration by the soldier or consulting counsel.
- A statement of any reasonable ground for belief that the soldier is, or was at the time of misconduct, mentally defective, deranged, or abnormal. When appropriate, evaluation by a psychiatrist will be included.

(c) Paragraph 10-6 stipulates medical and mental examinations are not required but may be requested by the Soldier under AR 40-501, chapter 8.

(d) Paragraph 10-8b stipulates Soldiers who have completed entry-level status, characterization of service as honorable is not authorized unless the Soldier's record is otherwise so meritorious that any other characterization clearly would be improper.

(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 "KFS" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 10, In Lieu Trial by Court-Martial.

**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, through counsel, an upgrade of the character of service to either general (under honorable conditions) or honorable, a change to the narrative reason for separation and SPD code, and a change to the RE code. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The evidence in the applicant's Army Military Human Resource Record (AMHRR) confirms the applicant was charged with the commission of an offense punishable under the UCMJ with a punitive discharge. In consultation with legal counsel, the applicant voluntarily requested, in writing, a discharge under the provisions of AR 635-200, Chapter 10, in lieu of trial by court-martial. In this request, the applicant admitted guilt to the offense, or a lesser included

offense, and indicated an understanding an under other than honorable conditions discharge could be received, and the discharge would have a significant effect on eligibility for veterans' benefits. The under other than honorable conditions discharge received by the applicant was normal and appropriate under the regulatory guidance.

c. The applicant was separated under the provisions of AR 635-200, Chapter 10, with an under other than honorable conditions characterization of service and an RE code "4." The narrative reason specified by Army Regulations for a discharge under this chapter is "In Lieu of Trial by Court-Martial" and the separation code is "KFS." AR 635-8, Separation Documents, which governs the preparation of the DD Form 214 dictates the entry of the narrative reason for separation, entered in block 28 and the separation code, entered in block 26 of the form, will be as listed in tables 2-2 or 2-3 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 or SPD code or narrative reason for separation to be entered under this regulation. Additionally, Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. There is no basis upon which to grant a change to the reason or the SPD code. RE-4 Applies to a 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.

d. The applicant and counsel contend the applicant received an other than honorable conditions character of service due to conduct, such as the repeated AWOL, which was directly linked to diagnosed PTSD and TBI. The applicant provides evidence of an in-service diagnosis of anxiety disorder and alcohol dependence. The applicant underwent an MSE, on 5 April 2007, which reflects the applicant could understand and participate in administrative proceedings and appreciate the difference between right and wrong. The MSE notes the applicant was cleared for any administrative action deemed by the Command. The remarks state, "... It appears that SM wants out of the Army and is not motivated for continued service on active duty. SM took an MMPI-2... the test was invalid due to SM's responding to the questions in an extremely exaggerated manner. [Applicant] endorsed a wide variety of rare symptoms, and therefore most likely falsely claimed psychological problems." The applicant provided a Psychologists Report, 18 October 2009, a Neuropsychology Consult, a Department of Veterans Affairs Medical Admission, 22 August 2006, an Emergency Room Medical Record, 27 August 2006; an Overdose Medical Record, 11 April 2007; an Inpatient Psychiatry record, 8 September 2008, a Psychiatry Attending Inpatient Note, 18 August 2015; and a Psychiatry Note, 16 April 2013 which notes a diagnosis of PTSD.

## 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: Post-Traumatic Stress Disorder (PTSD) and Unspecified Psychosis.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 100 percent Service Connected (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 shows the applicant has a behavioral health (BH) condition that mitigates the misconduct as outlined in the Basis of Separation (BoS). The applicant is 100 percent SC for PTSD and given the nexus between PTSD and avoidant behavior, to include AWOL, the applicant's misconduct characterized by AWOL x2 is mitigated by their 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 opinion, the Board determined the applicant's PTSD and Unspecified Psychosis outweighed the discharge, as the advisor found a clear nexus between the applicant's behavioral health conditions and the misconduct of AWOL and Pretrial Confinement.

**b.** Prior Decisions Cited: None

**c.** Response to Contention(s): The applicant and counsel contend the applicant received an other than honorable conditions character of service due to conduct, such as the repeated AWOL, which was directly linked to diagnosed PTSD and TBI. The Board considered this contention regarding the link between the applicant's AWOL incidents and diagnosed PTSD and TBI. The Board agreed with the Medical Advisor's opinion that the applicant's behavioral health conditions mitigated the misconduct, ultimately outweighing the discharge and supporting an upgrade to the characterization of service.

**d.** The Board determined the discharge is inequitable based on the applicant's diagnosed PTSD and Unspecified Psychosis, which outweighed the offenses of AWOL and Pretrial Confinement. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed the separation authority to AR 635-200, paragraph 14- 12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN. The Board determined the reentry code is proper and equitable and voted not to change it.

**e.** Rationale for Decision:

**(1)** 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 diagnosed PTSD and Unspecified Psychosis outweighed the applicant's misconduct of AWOL and Pretrial Confinement.

**(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**

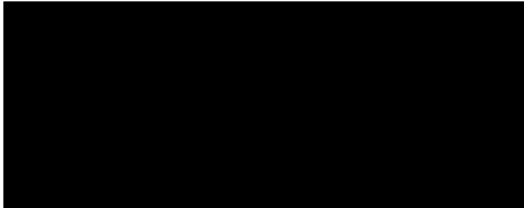
**AR20220005680**

**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:**

10/31/2025



**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