

1. Applicant's Name: [REDACTED]

a. **Application Date:** 5 July 2022

b. **Date Received:** 18 July 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 during their deployment in support of Operation Iraqi Freedom they were involved in a Vehicle-Borne Improvised Explosive Device attack and suffered a Traumatic Brain Injury (TBI), tinnitus, and ligament injuries. They were never given time to adjust to garrison life. They would call their superior if they were running late, just to be called out of ranks.

c. **Board Type and Decision:** In a records review conducted on 10 March 2026, and by a 3-0 vote, the Board granted the request upon finding the separation was inequitable. The Board, based on the applicant's length and quality of service, to include combat service, and the circumstances surrounding the discharge OBHI diagnoses of PTSD and TBI, determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), and the separation code to JKN. The Board determined the characterization of service was inequitable and voted to change it to Honorable. 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) / Army Regulation 635-200, Paragraph 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

b. **Date of Discharge:** 13 February 2009

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 6 January 2009

(2) **Basis for Separation:** The applicant was informed of the following reasons: they were found drunk on duty as a cannon crew member on 19 August 20018 and has also received several counseling statements for other misconduct.

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

(4) **Legal Consultation Date:** 7 January 2009

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

(6) Separation Decision Date / Characterization: 4 February 2009 / General (Under Honorable Conditions)

4. Service Details:

a. Date / Period of Enlistment Under Review: 15 September 2006 / 3 years, 18 weeks

b. Age at Enlistment / Education / GT Score: 19 / GED / 105

c. Highest Grade Achieved / MOS / Total Service: E-3 / 13B1O, Cannon Crewmember / 2 years, 4 months, 29 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (17 January 2007 – 1 April 2008)

f. Awards and Decorations: ARCOM, NDSM, GWTSM, ICM-CS, ASR, OSR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) Five DA Forms 4856 (Developmental Counseling Form) dated 10 June 2008 through 28 August 2008 reflects the applicant received counseling for various acts of misconduct to include occurrences of Failure to Report, failure to pay a ticket given by the city police, failure to be prepared for court, and disorderly conduct.

(2) A DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ)) dated 24 September 2008 reflects the applicant received nonjudicial punishment for, in that they did, at or near Fort Stewart, GA, on or about 19 August 2008, found drunk while on duty as a 13B (Cannon Crewmember), in violation of Article 112, UCMJ; and four occurrences of, without authority, fail to go at the time prescribed to their appointed place of duty, in violation of Article 86, UCMJ. The applicant's punishment consisted of a reduction in rank/grade from private first class/E-3 to private two/E-2, forfeiture of \$754.00 pay for one month and extra duty and restriction for 14 days. The applicant elected not to appeal.

(3) Three DA Forms 4856 (Developmental Counseling Form) dated 1 October 2008 through 3 November 2008 reflects the applicant received counseling for acts of misconduct to include Failure to Report, failure to obey a lawful order, and did not meet military uniform appearance.

(4) A memorandum, Bravo Battery, 1st Battalion, 41st Field Artillery, 1st Brigade Combat Team, 3rd Infantry Division, subject: Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, [Applicant], dated 6 January 2009, the applicant's company commander notified the applicant of their intent to separate them under the provisions of Army Regulation 635-200, paragraph 14-12c, for Commission of a Serious Offense, as described above in paragraph 3c(2). The commander recommended the applicant's characterization of service as General (Under Honorable Conditions). The applicant acknowledged of receipt of the Memorandum of Notification.

(5) On 7 January 2009, the applicant completed their Election of Rights, acknowledged they have been advised by consulting counsel of the basis for the contemplated action to

separate them for serious misconduct under Army Regulation 635-200, paragraph 14-12c, and its effect; of the rights available to them; and of the effect of any action taken by them in waiving their rights. They understand they may expect to encounter substantial prejudice in civilian life if a general (under honorable conditions) discharge is issued to them. They waived consulting counsel and elected to submit statement in their own behalf, submitting seven-character statements attesting to their character and of being a good Soldier.

(6) A memorandum, Bravo Battery, 1st Battalion, 41st Field Artillery, 1st Brigade Combat Team, 3rd Infantry Division, subject: Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, [Applicant], dated 6 January 2009, the applicant's company commander recommended the applicant be discharged from the U.S. Army prior to the expiration of their term of service. The commander states disposition other than elimination under provision of Army Regulation 635-200, paragraph 14-12c is not deemed feasible or appropriate due to the applicant's lack of ability or desire to conform to the military lifestyle.

(7) A memorandum, Headquarters, 1st Battalion, 41st Field Artillery, 1st Brigade Combat Team, 3rd Infantry Division, subject: Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, [Applicant], dated 20 January 2009, the applicant's battalion commander recommended the applicant be discharged from the U.S. Army under the provisions of Army Regulation 635-200, paragraph 14-12c, Commission of a Serious Offense. The commander recommended the applicant's service be characterized as General (Under Honorable Conditions) and recommends the request for waiver of further rehabilitation be approved.

(8) A memorandum, Headquarters, 1st Brigade Combat Team, 3rd Infantry Division, subject: Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, [Applicant], dated 4 February 2009, reflects the separation authority approved the separation pertaining to the applicant. The separation authority directed the applicant service be characterized as General (Under Honorable Conditions) and that further rehabilitative requirements be waived.

(9) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 13 February 2009, with 2 years, 4 months and 29 days of net active service this period. The DD Form 214 shows in:

- item 18 (Remarks) – in part, MEMBER HAS NOT COMPLETED FIRST FULL TERM OF SERVICE
- item 24 (Character of Service) – General (Under Honorable Conditions)
- item 26 (Separation Code) – JKQ
- item 27 (Reentry Code) – 3
- item 28 (Narrative Reason for Separation) – Misconduct, (Serious Offense)

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: On 16 December 2022 the Army Review Boards Agency requested the applicant provide their medical documents to support their mental health issues (Post Traumatic Stress Disorder and TBI), as of this date there has been no response.

(2) AMHRR provided: a Medical Command Form 699-R (Mental Status Evaluation) reflecting a diagnosis of Alcohol Dependence.

5. Applicant Provided Evidence: None submitted with application.

6. Post-Service Accomplishments: None submitted with application.

7. Statutory, Regulatory and Policy Reference(s):

a. Section 1553, Title 10, U.S. 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 Section 521 and Section 525 of the National Defense Authorization Act for Fiscal Year 2020, Title 10, U.S. Code 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, U.S. Code; and Department of Defense (DOD) 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 waivable and nonwaivable 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 waivable. 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 (Types of Characterization or Description) 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 (Separation for Misconduct) 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 (Secretarial Plenary Authority) 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, paragraph 14-12c, 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. A review of the available evidence provides the applicant received multiple counseling for various acts of misconduct, received nonjudicial punishment under the provisions of Article 15, UCMJ for being found drunk on duty and occurrences of failure to report and was involuntarily discharged from the U.S. Army. A DD Form 214 provides they were discharged with a character of service of General (Under Honorable Conditions) for misconduct (serious offense). They completed 2 years, 4 months and 29 days of net active service this period and did not complete their first full term of service of their 3-year, 18-week enlistment obligation.

c. 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; to include abuse of illegal drugs; 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.** 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, TBI.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found that the Applicant is not service connected for any MH conditions. In his VA Rating Decision dated June 23, 2014, he was denied service connection for PTSD and TBI. They wrote that he did not attend the medical evaluations for these conditions thus evidence was not available to them. On March 31, 2016, the applicant was diagnosed with history of TBI and PTSD, chronic.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that the applicant asserts that their misconduct is directly related to PTSD and TBI. During service, the applicant was seen at SUDCC and diagnosed with Alcohol Dependence. Medical records were void of MH treatment as their only touchpoint with MH was the Chapter MH MSE on November 17, 2008. At this time, the applicant was screened for all major MH diagnoses and a diagnosis was not rendered. After service, the applicant is not service connected for any MH conditions. The applicant was diagnosed once by a staff physician with PTSD and TBI on March 31, 2016. During the encounter, the applicant denied all symptoms of PTSD on the 4Q PTSD questionnaire. They were referred to MH for further diagnostic clarification and treatment. Evidence of MH follow-up was not found. The applicant was not seen again until August 2022 when the applicant underwent an MH evaluation for ADHD. At that time, the applicant was screened for MH conditions. Symptoms of anxiety were denied, and combat-related trauma or PTSD were not noted. Later records were void of MH treatment or diagnoses. At this time, there is insufficient evidence of a mental health condition or diagnosis around the time of the misconduct or after service. Thus, misconduct cannot be medically mitigated.

(4) Does the condition or experience outweigh the discharge? **N/A**

b. Prior Decisions Cited: None

c. Response to Contention(s):

(1) The applicant contends during their deployment in support of Operation Iraqi Freedom they were involved in a Vehicle-Borne Improvised Explosive Device attack and suffered a Traumatic Brain Injury (TBI), tinnitus, and ligament injuries. The Board recognizes and appreciates the applicant's service, considered this contention during board proceedings along with the totality of the applicant's service record, and determined that the applicant's length and quality of service, to include combat service, outweighed the applicant's offense of being drunk on duty and relief was warranted.

(2) The applicant contends they were never given time to adjust to garrison life. They would call their superior if they were running late, just to be called out of ranks. 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 and TBI outweighing the applicant being drunk while on duty.

d. The Board determined the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation and found insufficient evidence of in-service mitigating factors and the applicant does not have a BH condition that mitigates the applicant's misconduct of being drunk on duty. However, the Board determined the discharge is inequitable based on the applicant's length of service, quality of service, to include combat. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and change the narrative reason for separation to Misconduct (Minor Infractions).

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 and TBI mitigated the applicant's misconduct of being drunk while on duty.

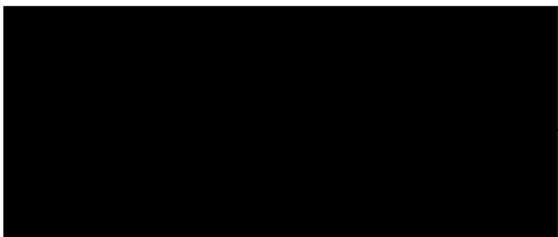
(3) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

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

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:



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