

1. Applicant's Name: [REDACTED]**a. Application Date:** 5 July 2022**b. Date Received:** 12 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 under other than honorable conditions. The applicant requests an upgrade to honorable.

b. Applicant Contention(s)/Issue(s): The applicant requests relief contending, they were separated for misconduct (serious offense) and have been found "not guilty" of the alleged misconduct.

c. Board Type and Decision: In a records review conducted on 18 November 2025, and by a 3-0 vote, the Board determined the discharge is inequitable based on a jury's unanimous vote of not guilty of murder. 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, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF. 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 / Under Other than Honorable Conditions

b. Date of Discharge: 8 April 2021

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 18 February 2020

(2) Basis for Separation: On 23 June 2019, the applicant murdered a civilian by discharging their pistol.

(3) Recommended Characterization: Under Other than Honorable Conditions

(4) Legal Consultation Date: 8 April 2020 / The applicant elected to consult with legal and declined to provide a statement on their behalf.

(5) Administrative Separation Board: On 8 April 2020, the applicant voluntarily waived their right to appear before an administrative separation board contingent upon a characterization of service no less favorable than a general (under honorable conditions). On 20 November 2020, the board found the applicant did commit murder and further recommended separation with an under other than honorable conditions characterization of service.

(6) Separation Decision Date / Characterization: 9 December 2020 / Under Other than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Reenlistment Under Review: 4 October 2018 / 6 years (second)

b. Age at Enlistment / Education / GT Score: 25 / Associate's Degree / 106

c. Highest Grade Achieved / MOS / Total Service: E-5 / 91C20 Utilities Equipment Repairer / 7 years, 8 months, 6 days

d. Prior Service / Characterizations: Regular Army (RA), 25 October 2011 – 4 September 2014 / Honorable; RA, 5 September 2014 – 3 October 2018 / Honorable

e. Overseas Service / Combat Service: SWA / Afghanistan, 5 July 2012 – 24 March 2013 (8 months, 20 days); Syria, 15 February – 17 September 2017 (7 months, 3 days)

f. Awards and Decorations: ARCOM, AAM-4, MUC, AGCM-2, ACM-CS, NCOPDR, ASR, OSR-2, NATOMDL, PRCHTBAD, IRCM-CS

g. Performance Ratings: Sergeant, 30 May 2018 – 29 May 2019 / Qualified

h. Disciplinary Action(s) / Evidentiary Record: An Incident/Investigation Report and Case Supplemental Report, dated 23 June 2019, provides the applicant was identified as the individual responsible for shooting the victim behind a restaurant. Witnesses reported a verbal altercation occurred before the applicant produced a firearm and discharged it, striking the victim in the chest. The applicant fled the scene following the shooting but was later apprehended by law enforcement officers. Detectives collected surveillance footage from nearby businesses showing the applicant and the victim engaged in a brief exchange prior to the gunfire. Officers recovered ballistic evidence and personal property from the scene, which were submitted for forensic analysis. The victim was transported to the hospital, where they were pronounced dead. The applicant was taken into custody and interviewed in connection with the homicide. The case was documented by detectives and forward for persecutorial review.

(1) A Personnel Action, dated 1 July 2019, provides the applicant's duty status changed from present for duty (PDY) to confined by civilian authorities (CCA). A Report to Suspend Favorable Personnel Actions (FLAG), effective 18 February 2020, provides the applicant was flagged for field-initiated involuntary separation (BA).

(2) In a memorandum for the commander, dated 2 December 2020, the administrative law attorney found the administrative proceedings to be legally sufficient and recommended discharge with an under other than honorable conditions characterization of service. On 8 December 2020, the separation authority approved the discharge with the recommended characterization, which resulted in the applicant's reduction to the lowest enlisted grade.

(3) On 23 March 2021, separation orders were issued and a DD Form 214 (Certificate of Release or Discharge from Active Duty) provides the applicant was discharged on 8 April 2021. The remarks section annotates their continuous honorable active service from 25 October 2011 – 22 January 2018. The applicant completed their first full term of service.

(4) A General Court of Justice Superior Court Division Verdict(s) and Judgement/Order or Other Disposition, dated 30 June 2022, provides the applicant appeared on the charge of first degree murder and entered a plea of not guilty. A jury was empaneled as appears in the records, heard evidence, arguments, and the charge of the court. The jury deliberated and unanimously returned with a verdict of not guilty.

i. **Lost Time / Mode of Return:** CCA, 1 July 2019 – 8 April 2020 / Returned to Military Control

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

(1) **Applicant provided:** None

(2) **AMHRR provided:** None

5. **APPLICANT-PROVIDED EVIDENCE:** Application for the Review of Discharge; Superior Court Verdict; Judgement/Order or Other Disposition; Letter of Reference

6. **POST SERVICE ACCOMPLISHMENTS:** None provide with this application.

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 waiverable and nonwaiverable 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 waiverable. 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 631-10 (Absence, Without Leave, Desertion, and Administration of Personnel Involved in Civilian Court Proceedings) provides policies and procedures for reporting unauthorized absentees and deserters, the administering of absent without leave (AWOL) personnel and deserters, returning absentees and deserters to military control and the surrendering of military personnel to civilian law enforcement authorities. When a soldier returns from an absence that is or appears to be unauthorized, the unit commander informally investigates whether disciplinary action should be taken and if the soldier be charge with time lost.

(1) Classification of an absence is dependent upon such factors as the following:

- Order and instructions, written/oral, the Soldier received before/during absence
- Age, military experience, and general intelligence of the Soldier
- Number and type of contact the Soldier had with the military absent
- Complete or incomplete results of a court-martial decision if any

(2) An absence immediately following authorized leave is classified as AWOL. Should the absence subsequently be reclassified, the soldiers leave is corrected to reflect the reclassified absence, except if the absence is caused by the following:

- Mental incapacity
- Detention by civilian authorities
- Early departure of a mobile unit due to operational commitments

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.

(d) A Bad Conduct discharge will only be given to a Soldier pursuant to an approved sentence of general or special court-martial. Enlisted service members and officers with less than six years of service are eligible for a Bad Conduct Discharge. Behaviors such as drug abuse, assault, theft, insubordination, and other actions that violate military law may be punished with a BCD.

(e) A Dishonorable discharge is the most severe type of discharge and will be given to a Soldier pursuant only to an approved sentence of general or special court-martial. The appellate review must be completed and affirmed sentence ordered duly executed. Behaviors such as fraud, desertion, treason, espionage, sexual Assault, and murder and other actions may be punished with a dishonorable discharge.

(f) An uncharacterized separation will be described as entry-level with service uncharacterized if processing is initiated while a Soldier is in entry-level status. Unless the DCS, G-1, on a case-by-case basis, determines that characterization of service as honorable is clearly warranted by the presence of unusual circumstances involving personal conduct and performance of duty. This characterization is authorized when the Soldier is separated by reason of selected changes in service obligation, convenience of the Government, and Secretarial plenary authority. A Soldier is in an entry-level status (ELS) if the Soldier has not completed more than 180 days of creditable continuous active duty prior to the initiation of separation action.

(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, it will normally correct the record to show the following:

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

h. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JKQ" as

the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14-12C, Misconduct (Serious Offense).

i. 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 118** (murder) states in the subparagraph, the maximum punishment consists of dishonorable discharge, forfeiture of all pay and allowances, and confinement for life.

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 unauthenticated DD Form 214 (Certificate of Release or Discharge from Active Duty) provides the applicant was discharged under the provisions of AR 635-200, Chapter 14-12C for misconduct (serious offense) with an under other than honorable conditions characterization of service and was subsequently reduced to the lowest enlisted grade. They served 8 months and 6 days of a 6-year reenlistment contractual obligation, prior to being confined by civilian authorities on 1 July 2019, was charged with first degree murder and was released upon the verdict of not guilty on 30 June 2022.

(2) The applicant requests relief contending, they were separated for misconduct (serious offense) and have been found "not guilty" of the alleged misconduct. The applicant provided a Superior Court Verdict and Judgement/Order, dated 30 June 2022, reflecting a plea of not guilty and after a jury was empaneled, heard evidence, arguments, and charge of the court, they deliberated and returned a NOT GUILTY verdict.

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.

c. Published Department of Defense guidance indicates that the guidance is not intended to interfere or impede on the Board's statutory independence. The Board will determine the relative weight of the action that led to the discharge and whether it supports relief or not. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

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

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 50 percent SC for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that this misconduct characterized by murder is not mitigated as it is not naturally sequela of PTSD. In absence of a mitigating BH condition, upgrade based on medical mitigation is not supported.

(4) Does the condition or experience outweigh the discharge? **No.** Despite the Board's application of liberal consideration, the Board considered the opinion of the Board's Medical Advisor, a voting member, that the available evidence did not support a conclusion that the applicant's PTSD outweighed the basis for applicant's separation – charged for murder – for the aforementioned reason(s).

b. Prior Decisions Cited: N/A

c. Response to Contention(s): The applicant requests relief contending, they were separated for misconduct (serious offense) and have been found "not guilty" of the alleged misconduct. The battalion commander provided a reference letter stating they made the wrong decision to support a dishonorable discharge determining the mistake at trial upon receiving misleading and inaccurate information from the civilian police department. They described the applicant as an exceptional noncommissioned officer and leader who earned an honorable discharge through dedicated service and professionalism. The Board determined that this contention was valid and voted to upgrade the characterization of service due to a jury's unanimous vote of not guilty of murder.

d. The Board determined the discharge is inequitable based on a jury's unanimous vote of not guilty of murder. 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, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF.

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.

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AR20220010339

(2) The Board voted to change the applicant's characterization of service to Honorable because a jury's unanimous vote of not guilty of murder. Thus, the prior characterization is no longer appropriate.

(3) The Board voted to change the reason for discharge to Secretarial Authority under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JFF.

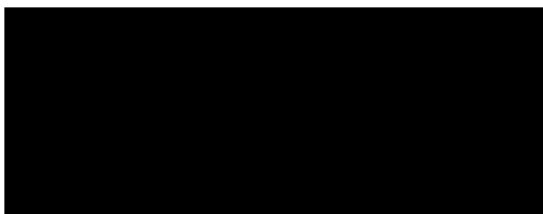
(4) The Board voted to maintain the RE-code, as the applicant's PTSD is also service-limiting..

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: Yes
- b. Change Characterization to: Honorable
- c. Change Reason / SPD Code to: Secretarial Authority / JFF
- d. Change RE Code to: No Change
- e. Change Authority to: AR 635-200, Chapter 15

Authenticating Official:

1/15/2026



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