

**1. Applicant's Name:** [REDACTED]

a. **Application Date:** 25 December 2022

b. **Date Received:** 3 January 2023

c. **Counsel:** None.

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

a. **Applicant's Requests and Issues:** The current characterization of service for the period under review is under honorable conditions (general). The applicant requests an upgrade to honorable, a separation code change and a narrative reason change.

(1) The applicant states in effect, they should have had a detailed psyche and physical evaluation to determine their mental and physical state and they should have possibly received a medical discharge in accordance with AR 40-501. They showed signs of a subpar mental state; general anxiety and aggression were present post deployment and post discharge. Additionally, they had other physical conditions that exacerbated their mental state due to chronic pain and they are currently rated 40 percent with the Department of Veteran Affairs. If an upgrade is not possible based on AR 40-501 then they are seeking an upgrade based on their merit post discharge.

(2) Prior to their deployment they had issues with memory, fatigue, and gradual chronic pain. While they were not physically diagnosed at the time, they do have records that indicated a mental state decline post deployment. They went AWOL for two months, they felt anxious, angry, and perplexed at the time. They lost sight of their priorities, and they could not handle their mental state.

b. **Board Type and Decision:** In a records review conducted on 25 April 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, and the circumstances surrounding the discharge (Neurosis). 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 Section 9 of this document for more detail regarding the Board's decision.*

**3. DISCHARGE DETAILS:**

a. **Reason / Authority / Codes / Characterization:** Misconduct (Serious Offense) / AR 635-200 / JKQ / RE-3 / Under Honorable Conditions (General)

b. **Date of Discharge:** 3 March 2010

c. **Separation Facts:** AMHRR

(1) **Date of Notification of Intent to Separate:** 8 February 2010

(2) **Basis for Separation:** The applicant was absent from their unit on 17 October 2009 – 14 December 2009. Additionally:

- They disobeyed a lawful order from a noncommissioned officer.
- They failed to report their appointed place of duty on multiple occasions.

**(3) Recommended Characterization:** General, under honorable conditions

**(4) Legal Consultation Date:** Waved, 17 February 2010

**(5) Administrative Separation Board:** N/A

**(6) Separation Decision Date / Characterization:** 20 February 2010 / GD

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 25 June 2009 / 4 years.

**b. Age at Enlistment / Education / GT Score:** 20 / NIF / NIF

**c. Highest Grade Achieved / MOS / Total Service:** E-4 (Specialist) / 11B1P Infantryman / 3 years, 6 months, 1 day.

**d. Prior Service / Characterizations:** RA; 20060903 – 20090624 / Continuous Honorable

**e. Overseas Service / Combat Service:** None / Iraq; 20080615 - 20090531

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

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

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

**(1)** Five Developmental Counseling Forms indicates that the applicant failed to report (AWOL), missed accountability formation's, and were late to formation on several occasions between 4 August 2009 – 21 September 2009.

**(2)** A Record of Proceedings UCMJ dated 5 October 2009 provides that the applicant received a NJP for violating Articles 91 and 86 (five specifications) of the UCMJ. Punishment consisted of reduction to E-1, forfeiture of \$699 pay for two months, extra duty, and restriction for 45 days.

**(3)** A Personnel Action Document provides that the applicant's duty status changed from present for duty (PDY) to absent without leave (AWOL) on 17 October 2009. On 14 December 2009 the applicant's duty status changed from AWOL to PDY when they reported to formation at 0900.

**(4)** A Record of Proceedings UCMJ document dated 21 December 2009 provides that the applicant received a NJP for violating Article 86 of the UCMJ. Punishment consisted of forfeiture of \$699 pay for two months, extra duty, and restriction for 45 days.

(5) A Report of Mental Status Evaluation document dated 7 January 2010 indicates that the applicant received a separation evaluation that cleared them for administrative proceedings.

(6) A Developmental Counseling Form dated 19 January 2010 indicates that the applicant was counseled to inform them of the intent to chapter them from the Army.

(7) On 8 February 2010 the applicant's immediate commander notified them of their intent to separate them for Misconduct (Serious Offense). The commander recommended a general, under honorable conditions characterization of service. The applicant acknowledged the commander's notification and basis for separation, they waived consulting with counsel and completed their election of rights.

(8) On 18 February 2010 the chain of command endorsed and concurred with the applicant's immediate commander's discharge recommendation. On 20 February 2010 the appropriate authority approved the separation and directed a General, under honorable conditions characterization of service.

i. **Lost Time / Mode of Return:** AWOL; 200191017 – 20091213 / Returned to military control.

j. **Behavioral Health Condition(s):** Other Mental Health

(1) **Applicant provided: Service Treatment Records,**

(2) **AMHRR Listed:** Memory lapses or loss.

**5. APPLICANT-PROVIDED EVIDENCE:** A DD Form 293 (Record Review) application, DD Form 214, Army Regulation 40-501, Developmental Counseling Form, ARCOM, Patient Health Questionnaire, 14 Pages of medical records from their Service Treatment Record, 3 pages of VA Progress Notes, VA Rating letter, 4 pages of medical records, a copy of their Master of Business Administration degree, a copy of their Bachelor of Business Administration degree, educational transcripts, an employment letter, and two criminal search results documents in support of their application.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant obtained their bachelor and master's degree, and they are employed full time.

**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.** Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

**(1)** Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

**(2)** Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

**c.** 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.

**d.** Army Regulation 635-200 provides the basic authority for the separation of enlisted personnel provides the authorized types of characterization of service or description of separation.

(1) 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.

(2) 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.

(3) 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.

(4) Except as otherwise indicated in this regulation, commanders must make maximum use of counseling and rehabilitation before determining that a Soldier has no potential for further useful service and, therefore, should be separated. In this regard, commanders will ensure that adequate counseling and rehabilitative measures are taken before initiating separation proceedings for the following reasons. Rehabilitative requirements are not required for individuals separated under Chapter 14-12c.

- Involuntary separation due to parenthood
- Personality disorder
- Other designated physical or mental conditions
- Entry-level performance and conduct
- Unsatisfactory performance
- Minor disciplinary infractions or a pattern of misconduct
- Failure to meet body fat standards

(5) 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. A soldier subject to this discharge under this regulation will be considered and processed for discharge even though he/she has filed an appeal or has stated his/her intention to do so. 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.

(6) 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.

**e.** 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, paragraph 12c, misconduct (serious offense).

**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 630-10 (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.

**(1)** 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 should be charged with time lost.

**(2)** Classification of an absence is dependent upon such factors as the following

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

**(3)** 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

**h.** Manual for Courts-Martial (2008 Edition), United States, states military law consists of the statutes governing the military establishment and regulations issued there under, 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 86 (Absence without leave: More than 30 days) states punishment consists of a dishonorable discharge, or a bad conduct discharge, forfeiture of all pay and allowances and confinement for 1 year.

**i.** Title 38, U.S. Code, Sections 1110 and 1131, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered medically unfitting for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by the agency.

**8. SUMMARY OF FACT(S):** 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, separation code change and a narrative reason change. The applicant's DD Form 214 indicates that the applicant received a general discharge when an UOTHC discharge is normally considered appropriate for a soldier discharged for serious misconduct.

**b.** Based on the available evidence, the applicant joined the Army at the age of 18, they advanced to grade of E-4, deployed to Iraq and reenlisted in the Army for an additional four years. Five months after they returned from Iraq, they went AWOL. The applicant received a NJP on 5 October 2009 for violating five specifications of Article 86 of the UCMJ, they were AWOL 12 days later from 17 October 2009 – 14 December 2009.

**c.** The applicant was notified of the intent to separate them for misconduct (Serious Offense). They waived consulting with counsel and received the required mental status evaluation. A DD Form 214 authenticated by the applicant's signature shows that they were discharged with an under honorable conditions (general) characterization of service on 3 March 2010.

**d.** Chapter 14 establishes policy and prescribes procedures for members being separated 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.

**e.** 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: Neurosis (70%SC). [Note-diagnosis of Adjustment DO with mixed emotional features is subsumed under diagnosis of Neurosis.]

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found VA service connection for Neurosis establishes nexus with active service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partial.** The Board's Medical Advisor applied liberal consideration and opined that the applicant has a BH condition, Neurosis, which mitigates some of his misconduct. As there is an association between this diagnosis and avoidant behaviors, there is a nexus between this condition, his multiple FTRs and his period of AWOL. This condition, however, does not mitigate disobeying a lawful order from an NCO as it is not associated with problems with authority and inability to distinguish right from wrong.

(4) Does the condition or experience outweigh the discharge? **Partial.** Based on liberally considering all the evidence before the Board, the ADRB determined that the applicant's GAD mitigates (multiple FTRs and AWOL). The applicant's BH condition (GAD) does not mitigate disobeying a lawful order from an NCO.

b. Prior Decisions Cited: None.

c. Response to Contention(s): No contentions presented.

d. The Board determined the discharge is inequitable based on the circumstances surrounding the discharge (Neurosis). 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) The Board determined the discharge was inequitable based on the applicant's length and quality of service, to include combat service, Neurosis (also known as Generalized Anxiety DO) mitigated the applicant's misconduct of multiple FTRs and AWOL. The applicant's diagnosis did not mitigate disobeying a lawful order from an NCO, however the applicant's in-service factors outweighed the misconduct. Therefore, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable and directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, paragraph 14-12a, the



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narrative reason for separation to Misconduct (Minor Infractions), and the separation code to JKN. The Board determined the RE Code was proper and equitable and voted not to change it.

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

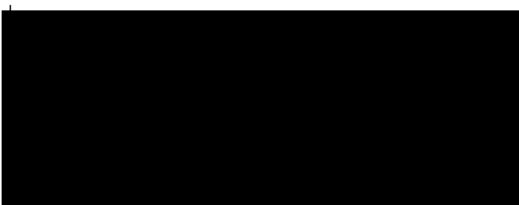
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**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

**Authenticating Official:**

5/6/2025

**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

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