

1. Applicant's Name: [REDACTED]**a. Application Date:** 22 October 2023**b. Date Received:** 23 October 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, and a narrative reason change.

The applicant seeks relief contending, in effect, at the time of their separation a mental status evaluation was performed due to the submission of their separation packet. They were enrolled in behavior health during that time due to them disclosing that they were sexually assaulted. The date that they enrolled in behavioral health is in their active duty medical records, additionally the information that's on their Department of Veteran Affairs (VA) rating decision letter should be considered.

b. Board Type and Decision: In a records review conducted on 3 February 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the circumstances surrounding the discharge (PTSD due to MST) which outweighed the applicant's failure to report (FTR), failure to obey lawful orders, violation of USFK wide curfew, and exceeding the USFK alcohol ration limit. 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. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to applicant's BH diagnosis warranting consideration prior to reentry of military service.

Please see Section 10 Board Discussion and Determination for more detail regarding the Board's decision.

(Board member names available upon request).

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Pattern of Misconduct / AR 635-200 / JKA / RE-3 / Under Honorable Conditions (General).

b. Date of Discharge: 2 February 2014**c. Separation Facts:**

(1) Date of Notification of Intent to Separate: 15 November 2013

(2) Basis for Separation: The applicant was informed of the following reasons:

- On divers occasion between 10 October 2012 – 5 January 2013 they failed to report to their appointed place of duty, failed to obey lawful orders, violated USFK wide curfew, and exceeded the USFK alcohol ration limit.

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

(4) Legal Consultation Date: 21 November 2013

(5) Administrative Separation Board: N/A

(6) Separation Decision Date / Characterization: 9 December 2013 / GD

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 12 July 2011 /

b. Age at Enlistment / Education / GT Score: 21 / High School Diploma / 95

c. Highest Grade Achieved / MOS / Total Service: E-3 / 25M Multimedia Illustrator / 2 years, 6 months, 21 days.

d. Prior Service / Characterizations: None.

e. Overseas Service / Combat Service: South Korea / None

f. Awards and Decorations: NDSM, GWTSM. KDSM, ASR, OSR

g. Performance Ratings: N/A

h. Disciplinary Action(s) / Evidentiary Record:

(1) Six Notification of Violation for Ration Control Purchase Limit memorandums indicates that the applicant violated the United States Forces Korea (USFK) alcohol purchase limit for a period of six months between May 2012 – October 2012.

(2) Seven Developmental Counseling's Forms indicates that the applicant was counseled seven times for various acts of misconduct between 19 October 2012 – 20 May 2013. The applicant exceeded the alcohol ration limit, failed to report on multiple occasions, violated curfew, made false official statements, apprehended for assault, and they disobeyed lawful regulations and lawful orders.

(3) A Record of Proceedings UCMJ document dated 26 January 2013 provides that the applicant received a NJP for violating Articles 134, 107 and 92 of the UCMJ. Punishment consisted of reduction in grade to E-2, oral reprimand, restrictions, and extra duty for 14 days.

(4) A Record of Proceedings UCMJ document dated 5 June 2013 provides that the applicant received a NJP for violating two specification of Article 86 of the UCMJ. They failed to go to their prescribed place of duty on 20 April 2013 and on 4 May 2013. Punishment consisted of reduction in grade to E-1, forfeiture of \$353 pay, oral reprimand, extra duty, and restrictions for 7 days.

(5) On 15 November 2013 the applicant's immediate commander notified them of their intent to separate them for a Pattern of Misconduct. The commander recommended a General (under honorable conditions) characterization of service. The applicant acknowledged the commander's notification and basis for separation, they consulted with counsel and completed their election of rights indicating they understood the prejudices that may occur in receiving a characterization of service of less than honorable.

(6) On 9 December 2013 the chain of command endorsed and concurred with the commander's discharge recommendation and the appropriate authority approved the separation and directed a General, under honorable conditions characterization of service.

(7) A redacted CID Report of Investigation and the supporting Military Police Report documents. The applicant submitted a statement on 18 June 2024 in regard to the redacted report.

i. **Lost Time / Mode of Return:** None.

j. **Behavioral Health Condition(s):** Other mental health.

(1) **Applicant provided:** Department of Veteran Affairs rating decision letter that shows they received a 100 percent rating for unspecified anxiety disorder, with major depressive disorder and alcohol use disorder.

(2) **AMHRR Listed:** On 31 October 2013 the applicant received a Mental Status Evaluation that shows they were diagnosed with adjustment disorder with disturbance of conduct and emotions.

5. APPLICANT-PROVIDED EVIDENCE: A DD Form 293 (Record Review) application, and a Department of Veteran Affairs rating decision letter in support of their application.

6. POST SERVICE ACCOMPLISHMENTS: None submitted in support of their 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. 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) 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.

(5) 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 "JKA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12b, pattern of misconduct.

f. 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.

g. 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.

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- 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.
- RE-4 Applies to: Person separated from last period of service with a nonwaivable 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.

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. The applicant's DD Form 214 indicates that the applicant received a General (under honorable conditions) characterization of service, rather than an under other than honorable conditions (UOTHC) discharge, which is normally considered appropriate for a soldier discharged under Chapter 14 for misconduct.

b. Based on the available evidence the applicant enlisted in the army at the age of 21, they advanced to the pay grade of E-3 before they received two rank reductions. Eight months after the applicant arrived at their duty station their misconduct began. The applicant received their first Non Judicial Punishment (NJP) for multiple acts of misconduct, 4 months later they received their second NJP and they were subsequently processed for administrative separation.

c. The applicant was notified of the Intent to separate them, they consulted with counsel and the appropriate authority approved their separation. Evidence provides that the applicant received the required medical and mental health separation examination's which indicates they were diagnosed with adjustment disorder with disturbance of conduct and emotions. The applicant's AMHRR does not provide any evidence of sexual assault. A properly constituted DD Form 214 authenticated by the applicant's signature indicates that they were discharged under the provisions of Army Regulation 635-200, Chapter 14-12b with an under honorable conditions (general) characterization of service on 2 February 2014.

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. DOCUMENTS / TESTIMONY PRESENTED DURING PERSONAL APPEARANCE: In addition to the evidence in the record, the Board carefully considered the additional document(s) and testimony presented by the applicant at the personal appearance hearing.

- a. The applicant submitted the following additional document(s): None.

b. The applicant presented the following additional contention(s): Applicant provided oral argument and statements in support of the contentions provided in written submissions and in support of previously submitted documentary evidence.

c. Counsel / Witness(es) / Observer(s): None.

10. 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: Adjustment Disorder, Alcohol Abuse, Anxiety Disorder and PTSD due to MST.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant was diagnosed with Adjustment Disorder Alcohol Abuse and MST during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partially.** The Board's Medical Advisor applied liberal consideration and opined that the excess ETOH rations, FTRs, and disobeying orders after 11 August 2012 are mitigated. Additionally, the applicant has consistently and credibly reported the curfew and false statement was related to the MST event, including being under the influence of a date rape drug when returning late leading to hazy memory of events occurring when trying to get back to applicant's barracks. Accordingly, the curfew violation and false statement are mitigated. Regarding the assault and related on 05 December 2012, depending on the applicant's testimony, it is possible the assault was triggered by a trauma reaction, false statement a means of avoiding discussing the trauma reaction/MST, and BAC refusal a trauma reactive need to maintain control of applicant's body. However, ration violations before 11 Aug 12 are not mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's PTSD due to MST outweighed the FTRs, failure to obey lawful orders, violation of USFK wide curfew, and exceeding the USFK alcohol ration limit basis for separation.

b. Response to Contention(s):

(1) The applicant contends being enrolled in BH at the time of separation. 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 due to MST fully outweighing the applicant's FTRs, failure to obey lawful orders, violation of USFK wide curfew, and exceeding the USFK alcohol ration limit basis for separation.

(2) The applicant contends being sexually assaulted and disclosing it to their S3 Sergeant Major. The Board considered this contention during proceedings.

(3) The applicant contends they would like to have their rank reinstated.

The Board determined that the applicant's requested change to the DD Form 214 does not fall within the purview of the ADRB. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using a DD Form 149 regarding this matter. A DD Form 149 may be obtained from a Veterans' Service Organization.

c. The Board determined the discharge is inequitable based on the PTSD due to MST outweighing the applicant's FTRs, failure to obey lawful orders, violation of USFK wide curfew, and exceeding the USFK alcohol ration limit. 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. The Board voted and determined the reentry eligibility (RE) code was proper and equitable due to applicant's BH diagnosis warranting consideration prior to reentry of military service. However, the applicant may request a personal appearance hearing to address further issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's PTSD due to MST mitigated the applicant's misconduct of FTRs, failure to obey lawful orders, violation of USFK wide curfew, and exceeding the USFK alcohol ration limit. Thus, the prior characterization is no longer appropriate.

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

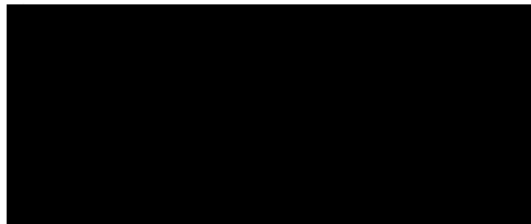
(3) The RE code will not change due to applicant's BH diagnosis warranting consideration prior to reentry of military service.

11. 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:

3/18/2025



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
 UOTHHC – Under Other Than
 Honorable Conditions
 VA – Department of Veterans
 Affairs