

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

- a. **Application Date:** 16 August 2023
- b. **Date Received:** 11 September 2023
- c. **Counsel:** [REDACTED]  
[REDACTED]  
[REDACTED]

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

a. **Applicant's Requests and Issues:** The current characterization of service for the period under review is general (under honorable conditions). The applicant through counsel, requests an upgrade to honorable, and changes to the SPD and RE codes, and narrative reason.

b. The applicant through counsel, seeks relief through equity on the hearing date.

c. **Board Type and Decision:** In a telephonic personal appearance conducted on 10 June 2024, and by a 4-1 vote, the Board determined the discharge is inequitable based on the applicant's length, quality of service and post-service accomplishments. 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, and the reentry code to RE-3.

*Please see Section 10 of this document for more detail regarding the Board's decision.*

*(Board member names available upon request)*

**3. DISCHARGE DETAILS:**

a. **Reason / Authority / Codes / Characterization:** Misconduct (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-4 / General (Under Honorable Conditions)

b. **Date of Discharge:** 16 November 2017

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 2 October 2017

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant wrongfully resisted arrest, drove recklessly, and drove over the speed limit.

(3) **Recommended Characterization:** General (Under Honorable Conditions); and separation be suspended for a period of 6 months (not to exceed 12 months).

(4) **Legal Consultation Date:** 2 October 2017

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

(6) **Separation Decision Date / Characterization:** 11 October 2017 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

- a. **Date / Period of Enlistment:** 17 June 2014 / 5 years
- b. **Age at Enlistment / Education / GT Score:** 18 / High School Graduate / 116

c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 25Q10, Multichannel Transmission Systems Operator-Maintainer / 3 years and 5 months

- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** None
- f. **Awards and Decorations:** AGCM, NDSM, ASR
- g. **Performance Ratings:** NA

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

(1) Serious incident report makes reference to the applicant having been arrested and charged with five misdemeanors, reckless driving, fleeing, and attempting to elude law enforcement x2 (speeding 151 in a 55 and 189 in a 45).

(2) Developmental Counseling Form, 11 August 2017, shows the applicant was counseled for speeding in excess of 180 mph, driving motorcycle without proper protective equipment and authorization to operate a motor vehicle, fleeing, and attempting to elude law enforcement x2, reckless driving, initiation of field separation flag, recommendation of serious offense chapter (14-12c), and removal from the promotion eligibility roster for Sergeant and removal of promotable status.

(3) Report of Mental Status Evaluation, 17 August 2017, shows the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant was mentally sound and able to appreciate any wrongfulness in conduct and to conform conduct to the requirements of the law. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant had been screened for PTSD and mild TBI with negative results.

(4) The applicant's Enlisted Record Brief, 17 November 2017, shows the applicant was flagged for Involuntary separation/field initiated (BA), effective 11 August 2017; and was ineligible for reenlistment due to pending separation (9V). The Assignment Eligibility Availability code shows AEA code "L" which has no assignment restrictions.

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

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

(1) **Applicant provided:** None

(2) **AMHRR Listed:** MSE as described in previous paragraph 4h.

*The ARBA's medical advisor reviewed DoD and VA medical records.*

5. **APPLICANT-PROVIDED EVIDENCE:** DD Form 293; three character letters.
6. **POST SERVICE ACCOMPLISHMENTS:** None submitted with the 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) 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 (Active Duty Enlisted Administrative Separations) provides the basic authority for the separation of enlisted personnel.

**(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)** 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.

**(4)** Paragraph 14-3 prescribes 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.

**(5)** Paragraph 14-12c prescribes 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 (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:

(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.

**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 through counsel, an upgrade to honorable, changes to the SPD and RE codes, and narrative reason. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's DD Form 214 shows the applicant served 3 years and 5 months. Evidence in the AMHRR shows separation action was initiated against the applicant for wrongfully resisting arrest, driving recklessly, and driving over the speed limit. The applicant's DD Form 214 shows the applicant was discharged on 16 November 2017 under the provisions of AR 635-200, Chapter 14, paragraph 14-12c, by reason of Misconduct (Serious Offense), with a characterization of service of general (under honorable conditions).

c. The applicant through counsel, requests the narrative reason for the discharge to be changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12c, AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Misconduct (Serious Offense)," and the separation code is "JKQ." Army Regulation 635-8 (Separation Processing and Documents) governs the preparation of the DD Form 214, and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be as listed in tables 2-2 or 2-3 of AR 635-5-1 (SPD Codes). The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

d. The applicant through counsel, requests the SPD to be changed. Separation codes are three-character alphabetic combinations that identify reasons for, and types of, separation from active duty. The primary purpose of SPD codes is to provide statistical accounting of reasons for separation. They are intended exclusively for the internal use of DoD and the Military Services to assist in the collection and analysis of separation data. The SPD Codes are controlled by OSD and then implemented in Army policy AR 635-5-1 (SPD Codes) to track types of

separations the SPD code specified by Army Regulations for a discharge under Chapter 14, paragraph 14-12c, is “JKQ.”

e. The applicant through counsel, requests the RE code to be changed. Soldiers processed for separation are assigned reenry codes based on their service records or the reason for discharge. Based on AR 601-210, the applicant was appropriately assigned an RE code of “4.” An RE code of “4” cannot be waived, and the applicant is no longer eligible for reenlistment.

f. The applicant through counsel, seeks relief through equity on the hearing date.

g. The third party statements provided with the application reflects the applicant’s biggest quality is loyalty. The applicant is a team player that demonstrates outstanding technical expertise and a strong commitment to safety.

h. 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):** N/A

b. **The applicant presented the following additional contention(s):** Applicant and counsel provided oral arguments in support of the contentions they provided in their written submissions and in support of their documentary evidence

c. **Counsel / Witness(es) / Observer(s):** [REDACTED]

**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? **No.** The Board’s Medical Advisor reviewed DoD and VA medical records and found no mitigating BH diagnoses on the applicant. The applicant provided no documents or testimony of a condition or experience, that, when applying liberal consideration, could have excused, or mitigated a discharge.

(2) Did the condition exist or experience occur during military service? **N/A**

(3) Does the condition or experience actually excuse or mitigate the discharge? **N/A**

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

b. Response to Contention(s): None

c. The Board determined the discharge is inequitable based on the applicant’s length, quality of service and post-service accomplishments. Therefore, the Board voted to grant relief

**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**

**AR20230012948**

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 and the reentry code to RE-3.

**d. Rationale for Decision:**

(1) The Board voted to change the applicant's characterization of service to Honorable. The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation. The Board found sufficient evidence of in-service mitigating factors (Length and Quality), post-service accomplishments, and no other misconduct in the file, and concurred the factors mitigated the misconduct.

(2) 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.

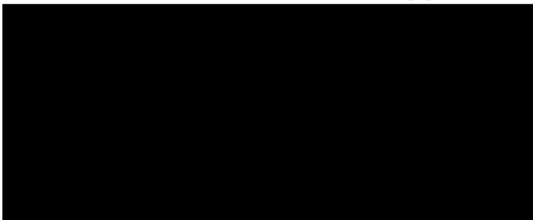
(3) The RE code will change to RE-3.

**11. 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:** RE-3
- e. **Change Authority to:** AR 635-200

**Authenticating Official:**

7/5/2024



**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