

1. Applicant's Name: [REDACTED]**a. Application Date:** 12 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 states in effect, they were told by a Major in the army, that with a general discharge they would be able to go to school using their G.I Bill, they trusted their word. They found out they are not eligible to go to school due to their type of discharge. They served their time and was an outstanding worker, they worked weekends and nights serving in the army, they deserve to go to school.

b. Board Type and Decision: In a records review conducted on 15 July 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's length and the circumstances surrounding the discharge (MDD and DO diagnoses). 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 10 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: 15 February 2023**c. Separation Facts:****(1) Date of Notification of Intent to Separate:** NIF

(2) Basis for Separation: On several occasions the applicant failed to report to their appointed place of duty, and on several occasions, they disobeyed a lawful order.

(3) Recommended Characterization: Under other than honorable conditions.**(4) Legal Consultation Date:** 7 February 2023**(5) Administrative Separation Board:** N/A

(6) Separation Decision Date / Characterization: 10 February 2023 / General, under honorable conditions.

4. SERVICE DETAILS:

- a. **Date / Period of Enlistment:** 17 February 2020 / 3 years 28 weeks.
- b. **Age at Enlistment / Education / GT Score:** 19 / High School Diploma / 101
- c. **Highest Grade Achieved / MOS / Total Service:** E-4 (Specialist) / 91B10 Wheeled Vehicle Mechanic / 3 years, 1 month, 4 days.
- d. **Prior Service / Characterizations:** None.
- e. **Overseas Service / Combat Service:** None.
- f. **Awards and Decorations:** NDSM, ASR
- g. **Performance Ratings:** N/A
- h. **Disciplinary Action(s) / Evidentiary Record:**
- (1) On 1 December 2022 the applicant was flagged for involuntary separation.
- (2) Seven Developmental Counseling statements provides the applicant were counseled for various acts of misconduct between 12 December 2022 – 24 January 2023. They failed to report to formation, they were AWOL, and they disobeyed a direct order by refusing to wear their duty uniform (OCP).
- The applicant provided they were having a mental breakdown and felt trapped
 - The applicant stated they would not wear their uniform because it was giving them mental stress/ issues.
- (3) A Report of Medical Examination document dated 31 January 2023, provides the applicant received a separation medical examination; they were well established with behavioral health.
- (4) On 30 January 2023 the applicant was placed on a command directed twenty-four hour, seven days a week watch after they were deemed a threat to their self through their recent suicide attempt. They were accompanied by assigned soldiers for twenty four hours a day, additionally the applicant had to sign in with staff duty every hour on weekends, holidays and at 1700 – 2100 on the weekdays.
- They were restricted to post
 - Could not consume or possess any alcoholic beverages
 - Escorted by an NCO for appointments
- (5) A Charge Sheet dated 31 January 2023 provides the applicant were charged with violating Article 86 of the UCMJ.
- Specification 1: AWOL on 12 December 2022 – 16 December 2022

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- Specifications 2 - 4: Failure to go to appointed place of duty; 0630 accountability formation

(6) A Report of Mental Status Evaluation document dated 3 February 2023 provides the applicant received a separation mental health evaluation.

(7) The applicant's immediate commander notified them of their intent to separate them for commission of a serious offense. The commander recommended an under other than honorable conditions characterization of service. On 6 February 2023 the applicant acknowledged the commander's notification and basis for separation.

(8) On 7 February 2023 the applicant submitted a Plea Agreement and plead guilty to all charges and specifications preferred against them at a Summary Court-Martial. Charges; AWOL on 14 December 2022 – 15 December 2022. They were not to be separated with a characterization less favorable than General, under honorable conditions.

- Charge I : Four specifications of Article 86
- Charge II: Two specifications of Article 90
- Charge III: Two specifications of Article 91

(9) A Confinement Order document provides the applicant's sentence was adjudged on 10 February 2023. They were sentenced to 7 days of confinement and a rank reduction to E-1.

(10) A Certificate Of Release Or Discharge From Active Duty document provides the applicant was discharged on 15 February 2023, they completed 3 years, 1 month, and 4 days of their contractual obligation.

i. **Lost Time / Mode of Return:** AWOL, 14 December 2022 – 15 December 2022 / Returned to military control ; CMA, 10 February 2023 – 15 February 2023 / Discharged

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

(1) **Applicant provided:** None.

(2) **AMHRR Listed:** Suicide attempt, Major Depressive Disorder, Substance use Disorder (alcohol).

5. **APPLICANT-PROVIDED EVIDENCE:** DD Form 149 (Correction Military Record) application.

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

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:

- 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 14-12b provides for the separation of Soldiers when they have a pattern of misconduct involving acts of discreditable involvement with civil or military authorities and conduct which is prejudicial to good order and discipline.

(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 600-85 (Army Substance Abuse Program (ASAP)) governs the program and identifies Army policy on alcohol and other drug abuse, and responsibilities. The ASAP is a command program that emphasizes readiness and personal responsibility. It provides the ultimate decision regarding separation or retention of abusers is the responsibility of the Soldier's chain of command. Abuse of alcohol or the use of illicit drugs by military personnel is inconsistent with Army values and the standards of performance, discipline, and readiness necessary to accomplish the Army's missions. Individuals who do not self-refer for treatment and are subsequently identified as positive for controlled substances for which they do not have a valid prescription may be considered in violation of the UCMJ for drug misuse/abuse.

f. 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).

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:

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

b. Based on the available evidence the applicant was flagged for involuntary separation prior to the misconduct found in their AMHRR. Within the last 60 days of their involuntary separation the applicant was AWOL for 24 hours, they failed to report to accountability formation on various occasions, they refused to wear their OCPs and had a suicide attempt. The applicant endorsed they were having mental health issues when they were counseled for their misconduct

and disobedience. On 31 January 2023 the applicant was charged with violating various Articles of the UCMJ, they plead guilty and were sentenced to 7 days of military confinement.

c. The applicant's plea agreement provided they would not be separated with a characterization less than a general discharge. On 10 February 2023, the appropriate authority approved the administrative separation and on 15 February 2023 the applicant was discharged after serving 5 days of confinement. Evidence provides they had an ETS date of 25 August 2023.

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):** None

c. **Counsel / Witness(es) / Observer(s):** N/A

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: Major Depressive DO (MDD); Mood Disorder (30% SC). [Note: Diagnosis of Depressive DO, unspecified is subsumed under diagnosis of MDD. Diagnosis of Other Specified Anxiety DO was made in March 2022. As of Oct 2022, the condition had resolved.]

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found the diagnosis of MDD was made during active service. VA service connection for Mood DO establishes it began during active service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the applicant has several mitigating BH conditions, Mood Disorder and Major Depressive Disorder. As there is an

association between these conditions, avoidant behaviors and difficulty with authority figures, there is a nexus between these conditions, his multiple FTRs and his disobeying of lawful orders.

(4) Does the condition or experience outweigh the discharge? **Yes.** Based on liberally considering all the evidence before the Board, the ADRB determined that the condition or experience outweighed the basis of separation.

b. Prior Decisions Cited: None.

c. Response to Contention(s):

(1) The applicant contends they were told they would be eligible to utilize their G.I Bill with a general discharge.

d. The Board determined the discharge is inequitable based on the applicant's length and the circumstances surrounding the discharge (MDD and DO diagnoses). 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 voted to change the applicant's characterization of service based on the following reasons. 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 concurred with the conclusion of the medical advising official that the applicant's (Mood and Depressive Disorder) does mitigate the applicant's misconduct (FTRs, disobeying orders). Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was inequitable.

(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.

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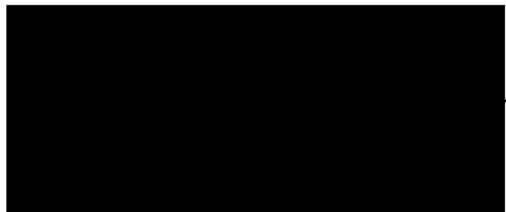
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

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: No change
- e. Change Authority to: AR 635-200

Authenticating Official:

4/3/2025

**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