

1. Applicant's Name: [REDACTED]**a. Application Date:** 16 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, separation code change, and a narrative reason change.

The applicant states in effect, they have been punished enough for the past six years not being able to work security for private companies. Getting their discharge upgraded will definitely help them get a job at a profession that they are good at.

b. Board Type and Decision: In a telephonic personal appearance conducted on 15 July 2024, and by a 5-0 vote, determined that the discharge was inequitable. 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 will remain RE-3.

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

3. DISCHARGE DETAILS:

Reason / Authority / Codes / Characterization: Misconduct (Serious Offense) / AR

a. 635-200, Paragraph 14-12c / JKQ / RE-3 / General, Under Honorable Conditions.

b. Date of Discharge: 20 January 2017

c. Separation Facts:

(1) Date of Notification of Intent to Separate: NIF

(2) Basis for Separation: NIF

(3) Recommended Characterization: NIF

(4) Legal Consultation Date: NIF

(5) Administrative Separation Board: N/A

(6) Separation Decision Date / Characterization: NIF / General, under honorable conditions.

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 9 July 2015 / 2 years.

b. Age at Enlistment / Education / GT Score: 19 / High School Graduate / 85

c. Highest Grade Achieved / MOS / Total Service: E-4 (Specialist) / 19D10, Cavalry Scout / 3 years, 6 months, 19 days

d. Prior Service / Characterizations: RA; 20130702 – 20150708 / Continuous Honorable

e. Overseas Service / Combat Service: South Korea / Kuwait.

f. Awards and Decorations: AAM, AGCM, NDSM, GWOTEM, GWOTSM, KDSM ASR, OSR, NCOPDR

g. Performance Ratings: N/A

h. Disciplinary Action(s) / Evidentiary Record:

(1) On 9 July 2015 the applicant reenlisted in the army for two years; first reenlistment.

(2) A Case Narrative document provides on 20 November 2016 the applicant was apprehended and transported to the Fort Riley Police Department after a series of standardized field sobriety tests indicated multiple signs of impairment. The applicant was parked outside of an Access Control Point (ACP) when contact was made. Officers found a loaded weapon in the applicant's glove compartment, their BAC (Blood Alcohol Concentration) was .165.

(3) On 29 November 2016 the applicant received a General Officer Memorandum of Reprimand for driving under the influence of alcohol. They were arrested for driving under the influence and for failing to properly transport a weapon. The applicant acknowledged receipt of the reprimand and elected to not submit matters on their behalf.

(4) An Enlisted Record Brief (ERB) provides the applicant was flagged for involuntary separation (BA) on 19 November 2016 and had an ETS date of 8 July 2017.

(5) Orders 009-0015, provides the applicant was notified of their separation date on 9 January 2017.

(6) A Certificate of Release or Discharge from Active Duty (DD Form 214) provides on 20 January 2017 the applicant was discharged from the army.

- Authority: 635-200, Chapter 14-12c
- Narrative Reason: Misconduct (serious offense)
- Service Characterization: Under Honorable Conditions (general)
- Remarks: Continuous Honorable Active Service 2 July 2013 – 8 July 2015; Immediate Reenlistment 9 July 2015 – 20 January 2017
- Net Service: 3 years, 6 months, and 19 days
- Signature: Electronically signed by the applicant

i. Lost Time / Mode of Return: None.

j. Behavioral Health Condition(s): None.

(1) **Applicant provided:**

(2) **AMHRR Listed:**

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293 (Record Review) application, two DD Form 214's, Covered 6 Security Academy official transcripts that shows the applicant completed 200 hours of the Executive Protection Program on 13 October 2023; they had a 3.94 GPA, and a character letter that describes the applicant as reliable, motivated, and hard working.

6. POST SERVICE ACCOMPLISHMENTS: The applicant completed the Executive Protection Program at the Covered 6 Security Academy on 13 October 2023.

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 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 600-8-2 (Suspension of Favorable Personnel Actions (Flag)) provides the policies, operating rules and steps governing the suspension of favorable personnel actions. A flag is emplaced during some type of disciplinary or administrative action until that action is concluded. The Flag should be initiated within 3 working days after identification of the soldiers' unfavorable status and removed within 3 working days after determination of the final disposition. Commanders and general office staff will establish necessary internal controls to ensure requirements are met: DA Form 268 is prepared to reflect that favorable personnel actions are suspended; the Flag is input into HR systems without delay. Flag code "B" is a nontransferable code used when involuntary separation or discharge is initiated (field).

g. Army Regulation 635-5 (Separation Documents) This regulation prescribes policy and procedural guidance relating to transition management. It consolidates the policies, principles of support, and standards of service regarding processing personnel for transition and explains separation document preparation. It provides the following for Block 18 (Remarks):

(1) Mandatory entry: "The information contained herein is subject to computer matching within the Department of Defense (DOD) or with any other affected Federal or non-Federal agency for verification purposes and to determine eligibility for, and/or continued compliance with, the requirements of a federal benefits program."

(2) Mandatory entry: "SOLDIER (HAS) OR (HAS NOT) COMPLETED FIRST FULL TERM OF SERVICE." This information assists the State in determining eligibility for unemployment compensation entitlement. The following guidance will help determine which entry to use:

(a) To determine if an enlisted Soldier has completed the first full term of enlistment, refer to the enlistment contract and any extensions to those initial enlistment documents and compare the term of enlistment to the net service in block 12c of the DD Form 214. If Soldier has completed or exceeded the initial enlistment, enter "HAS." If block 12c of the DD Form 214 is less than the Soldier's commitment, enter "HAS NOT."

(b) Routinely, a Soldier should not be considered to have completed the first full term of service if separation occurs before the end of the initial contracted period of service. However, if a Soldier reenlists before the completion of that period of service, the first term of service is effectively redefined by virtue of the reenlistment contract.

h. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes) provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, misconduct (serious offense).

i. 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.

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-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 serious misconduct.

b. Based on the available evidence the applicant enlisted in the army at the age of 20. They reenlisted in the Army in 2015 at the rank of specialist, roughly 17 months into their two year contractual obligation they were arrested for driving under the influence of alcohol and for failing to properly transport a weapon; their blood alcohol content level registered at .165. They received a General Officer Memorandum of Reprimand and were processed for administrative separation.

c. A Review of the record provides administrative irregularity occurred in the proper retention of official records, specifically, the AMHRR is void of the applicant's entire separation packet to include documentation to support if the applicant consulted with counsel and if they received the required medical and mental separation examinations. Due to the lack of evidence, we are unable to provide all the specific facts and circumstances surrounding the applicant's involuntary separation. Notwithstanding the lack of evidence, the record provides they applicant was flagged for involuntary separation, and they signed a properly constituted DD Form 214, that shows they were discharged under the provisions of Army Regulation 635-200, Chapter 14 (serious offense) with an under honorable conditions (general) characterization of service on 20 January 2017.

d. Review of the available evidence provides administrative error in Item 18 (Remarks) of the DD Form 214 which states "Member has not completed first full term of service". The applicant reenlisted on 9 July 2015, therefor subsequently completing their first full term of service according to Army Regulation 635-8; if a Soldier reenlists before the completion of their initial contracted period of service, the first term of service is effectively redefined by virtue of the reenlistment contract.

e. 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.

f. 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):**

b. **The applicant presented the following additional contention(s):**

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

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: Anxiety DO (70%SC)

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found VA service connection establishes that Anxiety DO began during military 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, Anxiety Disorder, which mitigates some of his misconduct. As there is an association between this condition and self-medication with alcohol and/or illicit substances, there is a nexus between his diagnosis of Anxiety DO and his DUI. Anxiety DO does not mitigate the offense of carrying a loaded, concealed weapon as this condition does not affect one's ability to distinguish right from wrong and act in accordance with the right.

(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 condition or experience partially outweighed the basis of separation.

b. Prior Decisions Cited: Denied; 30 May 2018.

c. Response to Contention(s): None.

d. The Board determined that the discharge was inequitable. 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 will remain RE-3.

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, Quality, Combat) and concurred with the conclusion of the medical advising official that the applicant's Anxiety Disorder does mitigate some of the applicant's misconduct -DUI. 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.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20230015102

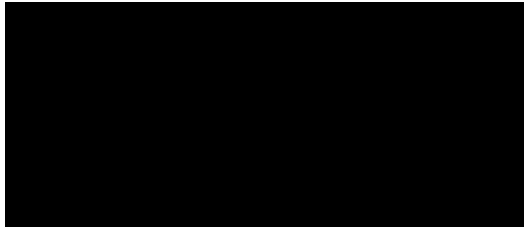
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

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



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