

**1. Applicant's Name:** [REDACTED]**a. Application Date:** 6 November 2023**b. Date Received:** 6 November 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 General (Under Honorable Conditions). The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, mental health struggles led to the separation despite the applicant's best efforts to have a positive outlook. The applicant was awarded a 100-percent service-connected disability rating due to the profound impact of mental health struggles. The applicant desired to reenter military service but could not be due to the discharge.

**b. Board Type and Decision:** In a records review conducted on 23 October 2024, and by a 5-0 vote, the board determined the discharge is inequitable based on the applicant trauma disorder and in service factors (length, quality, and combat) mitigated the basis for separation - pattern of misconduct ("FTR and Lying to an NCO). Therefore, the board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed to 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 RE code was proper and equitable and voted not to change it. *Please see Section 9 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:** Pattern of Misconduct / AR. 635-200, Paragraph 14-12b / JKA / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 12 October 2014**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 27 August 2014

**(2) Basis for Separation:** The applicant was informed of the following reasons: On 30 April 2014, the applicant lied to a noncommissioned officer and on divers' occasions between on or about 30 April and on or about 14 May 2014, the applicant failed to report to the appointed place of duty.

**(3) Recommended Characterization:** General (Under Honorable Conditions)

**(4) Legal Consultation Date:** 28 August 2014

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

**(6) Separation Decision Date / Characterization:** 3 September 2014 / General (under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 18 April 2013 / 3 years

**b. Age at Enlistment / Education / GT Score:** 23 / HS Graduate / 89

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 15P10, Aviation Specialist / 5 years, 1 month, 11 days

**d. Prior Service / Characterizations:** RA, 2 September 2009 – 17 April 2013 / HD

**e. Overseas Service / Combat Service:** SWA / Kuwait (3 December 2012 – 22 August 2013), Afghanistan (21 June 2010 – 20 June 2011)

**f. Awards and Decorations:** ACM-CS, ARCOM, AAM, NATO MDL, AGCM, NDSM, GWOTEM, GWOTSM, ASR, OSR-2

**g. Performance Ratings:** NA

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

**(1)** Summarized Article 15, 17 June 2014, reflects the applicant failed to go at the prescribed time to the appointed place of duty on four separate occasions and on or about 30 April 2014, with intent to deceive, made a false official statement. The punishment consisted of extra duty for 10 days.

**(2)** Mental Status Evaluation (MSE), 16 July 2014, reflects the applicant could participate in administrative procedures and could appreciate the difference between right and wrong. The applicant was diagnosed with anxiety disorder, NOS.

**(3)** The applicant was counseled on multiple occasions for misconduct.

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

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

**(1) Applicant provided:** The applicant provides medical records pertaining to the applicant's mental health issues.

**(2) AMHRR Listed:** See MSE as described in item 4h (2).

**5. APPLICANT-PROVIDED EVIDENCE:** On-Line Application, medical records, DD Form 214

**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), 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.

(1) Chapter 3, Section II provides the authorized types of characterization of service or description of separation.

(2) Paragraph 3-7a states 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.

(3) Paragraph 3-7b states 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.

(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.

(5) 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.

(6) Paragraph 14-12b, addresses a pattern of misconduct consisting of either discreditable involvement with civilian or military authorities or discreditable conduct and conduct prejudicial to good order and discipline including conduct violating the accepted standards of personal conduct found in the Uniform Code of Military Justice, Army Regulations, the civilian law and time-honored customs and traditions of the Army.

**8. SUMMARY OF FACT(S):** The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

The applicant requests an upgrade to honorable. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant was discharged under the provisions of AR 635-200, paragraph 14-12b, by reason of Pattern of Misconduct, with a characterization of service of General (Under Honorable Conditions).

The applicant contends mental health struggles led to the separation despite the applicant's best efforts to have a positive outlook and the applicant was awarded a 100-percent service-connected disability rating due to the profound impact of mental health struggles. The applicant's AMHRR contains documentation which supports a diagnosis of in-service anxiety, NOS. On 16 July 2014, the applicant underwent a MSE which indicates the applicant was able

to recognize right from wrong. The applicant provides medical records pertaining to the applicant's mental health issues.

The applicant states the applicant desired to reenter military service but could not be due to the discharge. Soldiers processed for separation are assigned reentry codes based on their service records or the reason for discharge. Based on Army Regulation 601-201, the applicant was appropriately assigned an RE code of "3." There is no basis upon which to grant a change to the reason or the RE code. An RE Code of "3" indicates the applicant requires a waiver before being allowed to reenlist. Recruiters can best advise a former service member as to the Army's needs at the time and are required to process waivers of reentry eligibility (RE) codes if appropriate.

#### **9. BOARD DISCUSSION AND DETERMINATION:**

**a.** As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

**(1)** Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses: The applicant held an in-service diagnosis of Anxiety Disorder NOS. Post-service, he is service connected for Major Depressive Disorder (MDD). Additional diagnoses include Unspecified Trauma and Stressor Related Disorder secondary to combat, Unspecified Depressive Disorder, Alcohol Use Disorder Severe, and Dysthymia.

**(2)** Did the condition exist, or experience occur during military service? **Yes.** The applicant held an in-service diagnosis of Anxiety Disorder NOS. The applicant holds a combat related diagnosis.

**(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's diagnosed Trauma Disorder, secondary to combat, mitigates the basis for separation. Specifically, there is the possibility the applicant's FTRs were secondary to trauma avoidance. Accordingly, FTRs are mitigated. While lying about an appointment to aid in avoidance does involve conscious thought, it would be secondary to the drive for trauma avoidance and thereby mitigated.

**(4)** Does the condition or experience outweigh the discharge? **Yes.** The board concurred with the opinion of the Board's Medical Advisor, a voting member. As a result, the ADRB applied liberal consideration and found that the applicant's trauma disorder, in service factors (length, quality, and combat) outweigh the basis for separation - multiple FTRs and lying to an NCO.

**b.** Response to Contention(s): The applicant contends mental health struggles led to the separation despite the applicant's best efforts to have a positive outlook and the applicant was awarded a 100-percent service-connected disability rating due to the profound impact of mental health struggles. 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 trauma disorder, in service factors (length, quality, and combat) out weight the basis for separation multiple FTRs and lying to an NCO - basis for separation.

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c. The board determined the discharge is inequitable based on the applicant's trauma disorder, service factors (length, quality, and combat) outweighing the basis for separation multiple FTRs and lying to an NCO

d. Rationale for Decision:

(1) The board voted to change the applicant's characterization to honorable because the applicant's trauma disorder, service factors (length, quality, and combat) outweigh the basis for separation multiple FTRs and lying to an NCO. Thus, the prior characterization is no longer appropriate.

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

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

**10. BOARD ACTION DIRECTED:**

- a. **Issue a New DD-214 / Separation Order:** 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, paragraph 14-12a

**Authenticating Official:**

12/31/2024

**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  
UOTH – Under Other Than  
Honorable Conditions  
VA – Department of Veterans  
Affairs