

1. Applicant's Name: [REDACTED]**a. Application Date:** 25 December 2023**b. Date Received:** 25 December 2023**c. Counsel:** None**2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:****a. Applicant's Requests and Issues:**

(1) The current characterization of service for the period under review is general (under honorable conditions). The applicant requests an upgrade to honorable, a change to their separation code, reentry code and the narrative reason for separation, and an appearance before the Board.

(2) The applicant seeks relief stating the Department of Veterans Affairs (VA) reflects their diagnosis of Post Traumatic Stress Disorder (PTSD), affirming the accuracy of their initial disclosure during their Army service. With the VA documentation, they assert the need for their DD Form 214 (Certificate of Release or Discharge from Active Duty) to be updated reflecting their accurate medical condition.

b. Board Type and Decision: In a telephonic personal appearance hearing conducted on 16 September 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the circumstances surrounding the discharge (MST, MDD and PTSD 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, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF. The Board determined the reentry code is proper and equitable and voted not to change it.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Misconduct (Serious Offense) / Army Regulation 635-200 / JKQ / RE-4 / General (Under Honorable Conditions)

b. Date of Discharge: 23 August 2023**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 24 July 2023

(2) **Basis for Separation:** on 21 February 2023, failed to follow a direct order by intentionally missing their flight to the National Training Center (NTC).

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

(4) **Legal Consultation Date:** 25 July 2023

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

(6) **Separation Decision Date / Characterization:** 4 August 2023 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

- a. **Date / Period of Re-enlistment:** 9 November 2021 / 6 years
- b. **Age at Re-enlistment / Education / GT Score:** 29 / HS Graduate / 117
- c. **Highest Grade Achieved / MOS / Total Service:** E-3 / 92Y1O, Unit Supply Specialist / 1 year, 9 months, 15 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** None
- f. **Awards and Decorations:** ASR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:**

(1) Three DA Forms 4856 (Developmental Counseling Form) dated 13 December 2022 through 21 February 2023 reflects the applicant received event oriented counseling for refusing to train and failure to follow a direct order. The applicant was formally counseled on their place of duty on 21 February 2023 and agreed to the consequences that would follow if they did not meet their place of duty to go to the NTC and will be recommended for an other than honorable discharge. The applicant agreed with the information and signed the forms.

(2) A DA Form 3822 (Report of Mental Status Evaluation) dated 28 February 2023 reflects the applicant has no duty limitation due to behavioral health reasons and currently meets behavioral health medical retention. Section IV (Diagnoses) reflects a behavioral health diagnosis of "Other Problems related to other legal circumstances." The behavioral health provider comments there is no indication that the applicant's alleged misconduct is related to a behavioral health condition. The applicant is cleared for administrative actions as Command deemed appropriate.

(3) A DA Form 4856 dated 31 May 2023 reflects that applicant received counseling for missing movement, failure to make the movement of their flight to the NTC; and serves as formal counseling for active duty enlisted administrative separations. The Key Points of Discussion states on 15 February 2023 the applicant was counseled on the importance of obeying direct orders. On 9 February 2023 the applicant was notified of their flight for the NTC would leave on 21 February 2023. A day prior to the scheduled flight they were notified by unit leadership that there will be an accountability formation. On 21 February 2023, at 0328 hours, the applicant sent a text message stating "I decided to don't go. I'll assume the consequences of my actions." After this action, the applicant told members of their leadership that they refused to go. Their actions were in direct violation of Article 87 (Missing Movement), Uniform Code of Military Justice (UCMJ) and a violation of Article 92 (Failure to Obey a Direct Order).

(4) Two DA Forms 4856 dated 6 June 2023 and 12 June 2023 reflects the applicant received event oriented counseling for failure to report for physical training on 6 June 2023 and for missing from their place of duty on 12 June 2023. The applicant agreed with the information as signed the forms.

(5) A memorandum, Headquarters and Headquarters Company, 3rd Battalion, 15th Infantry Regiment, subject: Notification of Administrative Separation under Army Regulation 635-200, Paragraph 14-12c, dated 24 July 2024, the applicant's company commander notified the applicant of their intent to separate them under the provisions of Army Regulation 635-200, Chapter 14-12c, Commission of a Serious Offense, for on 21 February 2023, failed to follow a direct order by intentionally missing their flight to the NTC. The company commander recommended characterization of service of General (Under Honorable Conditions). On that same day, the applicant acknowledged the basis for the separation and of the right available to them.

(6) On 25 July 2023, the applicant completed their Election of Rights Regarding Separation under Army Regulation 635-200, Paragraph 14-12b, and acknowledged that they have been advised by their consulting counsel of the basis for the contemplated action to separate them, and its effects; of the rights available to them; and the effect of any action taken by them in waiving their rights. They acknowledged that they are not entitled for consideration of their case to an administrative separation board. They elected to submit statements on their behalf. [Note: statements on their behalf are not in evidence for review.] They understood that they may expect to encounter substantial prejudice in civilian life if a General (Under Honorable Conditions) discharge is issued to them.

(7) A memorandum, Headquarters and Headquarters Company, 3rd Battalion, 15th Infantry Regiment, subject: Commander's Report for Separation under Army Regulation 635-200, Paragraph 14-12c, undated, the applicant's company commander recommended they be separated from the Army prior to the expiration of their current term of service. The company commander states they do not consider it feasible or appropriate to accomplish other disposition as command chose to pursue involuntary separation without Article 15 [nonjudicial punishment] due to excessive patterns of misconduct that prevent management of further rehabilitation. The applicant repeatedly shows up late for work and has refused to train on three documented occasions. In their last Company, they refused to train and qualify on any weapon system and told their commander that they refused to fire a weapon. Any rehabilitation attempts will prove to be unsuccessful. It is in the best interest of the Army and the Soldier for them to be removed from the United States military. The separation does not involve a medical condition that is related to the assault, to include PTSD.

(8) A memorandum, Headquarters, 2nd Armored Brigade Combat Team, 3rd Infantry Division, subject: Administrative Separation under Army Regulation 635-200, Paragraph 14-12c, dated 4 August 2023, the separation authority reviewed the applicant's separation packet and directed that the applicant be separated from the U.S. Army prior to the expiration of their current term of service. The separation authority directed the applicant's service be characterized as General (Under Honorable Conditions). The rehabilitative transfer requirement are waived, as the transfer serves no useful purpose or will not produce a quality Soldier. They have reviewed the medical examination and mental status evaluation and have determined the applicant's medical condition(s) do not constitute matters in extenuation that relate to the basis for administrative separation or the overall characterization of service of the member as other than honorable.

(9) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 23 August 2023, with 1 year, 9 months, and 15 days of net active service this period. The DD Form 214 shows in:

- item 18 (Remarks) – MEMBER HAS NOT COMPLETED FIRST FULL TERM OF SERVICE
- item 24 (Character of Service) – General (Under Honorable Conditions)

- item 25 (Separation Authority) – Army Regulation 635-200
- item 26 (Separation Code) – JKQ
- item 27 (Reentry Code) – 3
- item 28 (Narrative Reason for Separation) – Misconduct, (Serious Offense)

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: A VA letter with a Rating Decision reflecting service connection for PTSD and major depressive disorder with anxious distress, granted with an evaluation of 70-percent.

(2) AMHRR Listed: Report of Mental Status Evaluation as described in previous paragraph 4h(2).

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 149 (Application for Correction of Military Records under the Provisions of Title 10, U.S. Code, Section 1552)
- VA Letter, with Rating Decision
- VA Loan Entitlement Document

6. POST SERVICE ACCOMPLISHMENTS: None submitted with application.

7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):

a. Title 10, U.S. Code, Section 1553, (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, Title 10 U.S. Code, Section 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 (DoD) 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; Title 10 U.S. Code; Section 1553 and DoD Directive 1332.41 and DoD Instruction 1332.28.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations) prescribes policies and standards to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. It prescribes the policies, procedures, authority for separation of Soldiers, and the general provisions governing the separation of Soldiers before ETS or fulfillment of active duty obligation to meet the needs of the Army and its Soldiers.

(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) A Under Other Than Honorable Conditions Discharge is an administrative separation from the Service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial.

(4) Chapter 14 (Separation for Misconduct) establishes policy and prescribes procedures for separating personnel for misconduct because of minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, conviction by civil authorities, desertion, and absence 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. Paragraph 14-12c (Commission of a Service Offense), stated a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

(5) Chapter 15 (Secretarial Plenary Authority), currently in effect, provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memoranda. Secretarial separation authority is normally exercised on a case-by-case basis.

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

g. Manual for Courts-Martial, United States (2019 Edition) stated, military law consists of the statutes governing the military establishment and regulations issued thereunder, the constitutional powers of the President and regulations issued thereunder, and the inherent authority of military commanders. Military law includes jurisdiction exercised by courts-martial

and the jurisdiction exercised by commanders with respect to nonjudicial punishment. The purpose of military law is to promote justice, to assist in maintaining good order and discipline in the Armed Forces. Appendix 12 (Maximum Punishment Chart) Manual for Courts-Martial shows the maximum punishments include punitive discharge for violating the following Article 87 (Missing Movement).

h. Title 38, U.S. Code, Sections 1110 and 1131, permits the VA to award compensation for a medical condition which was incurred in or aggravated by active military service. The VA, however, is not required by law to determine medical unfitness for further military service. The VA, in accordance with its own policies and regulations, awards compensation solely on the basis that a medical condition exists and that said medical condition reduces or impairs the social or industrial adaptability of the individual concerned. Consequently, due to the two concepts involved, an individual's medical condition, although not considered medically unfitting for military service at the time of processing for separation, discharge, or retirement, may be sufficient to qualify the individual for VA benefits based on an evaluation by the agency.

8. SUMMARY OF FACT(S):

a. The Army Discharge Review Board considers applications for upgrade as instructed by DoD Instruction 1332.28.

b. A review of the available evidence provides the applicant received multiple occurrences of developmental counseling sessions for acts of misconduct and for missing movement; and was involuntarily separated from the U.S. Army. Their DD Form 214 (Certificate of Release or Discharge from Active Duty), which provides they were discharged under the provisions of Army Regulation 635-200, paragraph 14-12c, by reason of Misconduct (Serious Offense), with a characterization of service of General (Under Honorable Conditions). They completed 1 year, 9 months, and 15 days of net active service this period and did not completed their first full term of service of 6 years.

c. Chapter 14 establishes policy and prescribes procedures for separation members 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.

d. The applicant's AMHRR does not reflect documentation of a diagnosis of PTSD during their military service. However, the applicant provided VA evidence of a diagnoses of PTSD and major depressive disorder with anxious distress, granted with an evaluation of 70-percent.

e. Published DoD 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): None

10. BOARD DISCUSSION AND DETERMINATION:

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

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor, a voting member, reviewed the applicant's DOD and VA health records, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: MST, PTSD, MDD.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found MST was diagnosed during military service. VA service connection for PTSD due to MST and MDD establishes nexus with 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 had a mitigating BH conditions, Depressive DO. As there is an association between Depressive DO and self-medication with illicit drugs, there is a nexus between his diagnosis of Depressive DO and his wrongful use of marijuana. [Note-diagnosis of Adjustment DO is subsumed under Depressive DO given the overlap of symptoms.] Applicant also has a diagnosis of ADHD which is a pre-existing condition and not under the purview of liberal consideration.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the applicant's condition or experience outweighed the listed basis for separation for the aforementioned reasons.

b. Prior Decisions Cited: None

c. Response to Contentions:

(1) The applicant contends the VA reflects their diagnosis of PTSD, affirming the accuracy of their initial disclosure during their Army service. The Board acknowledged this contention.

(2) The applicant contends with the VA documentation, they assert the need for their DD Form 214 to be updated reflecting their accurate medical condition. The Board acknowledged this contention.

d. The Board determined the discharge is inequitable based on the circumstances surrounding the discharge (MST, MDD and PTSD 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, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF. 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 to Honorable 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 and concurred with the conclusion of the medical advising official that the applicant's PTSD, MST, MDD does mitigate the applicant's basis of separation (refusal to training, FTRs). Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was inequitable and warranted an upgrade.

(2) The Board voted to change the applicant's narrative reason for discharge to Secretarial Authority, with a corresponding separation code to JFF, as the reason the applicant was discharged was both improper and unequitable.

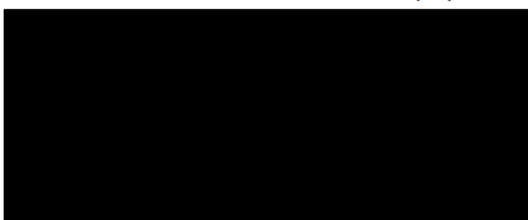
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

11. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: Yes**
- b. Change Characterization to: Honorable**
- c. Change Reason / SPD Code to: Secretarial Authority / JFF**
- d. Change RE Code to: No change**
- e. Change Authority to: AR 635-200**

Authenticating Official:

7/15/2025



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