

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

- a. **Application Date:** 16 October 2023
- b. **Date Received:** 20 November 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 a change to honorable, a change of their separation code, reentry code, the narrative reason for separation, and an appearance before the Board.

(2) The applicant seeks relief stating their father was terminally ill while they were in the Army, and they were unable to see them during that time. They were unjustly not given the opportunity to see them in their final days and they made the choice to leave and go see them prior to their passing. At the same time there were experiencing a marital problem, which ultimately led to their divorce.

(3) They were offered mental health services while they were in the Army, but they declined. They feel the extreme stress of the situations led to their decision to take leave without permission. They feel their conduct throughout their service was honorable, outside one event. Their honorable service should be considered when deciding their discharge upgrade.

**b. Board Type and Decision:** In a telephonic appearance conducted on 12 August 2024, and by a 4-1 vote, the majority of the board members determined the discharge is inequitable based on the applicant's Anxiety Disorder mitigating the applicant's Absent Without Leave (AWOL). 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 to misconduct (Minor Infractions), with a corresponding separation code of JKN, and changed the reentry code to RE3.

**3. DISCHARGE DETAILS:**

**a. Reason / Authority / Codes / Characterization:** Misconduct (Desertion) / Army Regulation 635-200 / JKF / RE-4 / General (Under Honorable Conditions)

**b. Date of Discharge:** 21 July 2022

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 13 June 2022

(2) **Basis for Separation:** on 2 June 2022, without authority, absent themselves from their unit, and did remain absent until 6 June 2022, when they were apprehended by civilian law enforcement.

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

**(4) Legal Consultation Date:** 21 June 2022

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

**(6) Separation Decision Date / Characterization:** 22 June 2022 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 5 January 2021 / 4 years, 23 weeks

**b. Age at Enlistment / Education / GT Score:** 21 / HS Diploma / 113

**c. Highest Grade Achieved / MOS / Total Service:** E-3 / 11B1O, Infantryman / 1 year, 6 months, 13 days

**d. Prior Service / Characterizations:** None

**e. Overseas Service / Combat Service:** None

**f. Awards and Decorations:** NDSM, ASR

**g. Performance Ratings:** NA

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

**(1)** Three DA Forms 4187 (Personnel Action) dated 1 June 2022 through 6 June 2022 reflects the applicant's duty status change from Present for Duty to Absent Unknown on 1 June 2022, from Absent Unknown to Absent Without Leave (AWOL) on 2 June 2022, and from AWOL to Present for Duty on 6 June 2022.

**(2)** A DA Form 4856 (Developmental Counseling Form) dated 7 June 2022, reflects the applicant received counseling from their platoon sergeant to inform of the initiation of a suspension of favorable action (Flag) for involuntary separation. The Key Points of Discussion states the flag is for their action on 1 June 2022 when they went AWOL from the unit and were detained in Tennessee. The applicant agreed with the information and signed the form.

**(3)** A DA Form 3822 (Report of Mental Status Evaluation) dated 9 June 2022 reflects the applicant has no duty limitations due to behavioral health reasons and meets behavioral health retention standards.

**(a)** Section IV (Diagnoses) reflects the applicant has none.

**(b)** Section V (Follow-Up Recommendations) reflects follow-up as already scheduled with Behavioral Health, biweekly telephone check-ins.

**(c)** Section VI (Recommendations and Comments) the behavioral health provider states the applicant is mentally sound and able to appreciate any wrongfulness in their conduct and conform their conduct to the requirements of law. They are considered accountable for their actions. They have the mental capacity to understand and participate in board proceedings and is cleared for any administrative action deemed appropriate by command.

(4) A memorandum, Delta Company, 4th Battalion, 31st Infantry Regiment, subject: Notification of Administrative Separation under Army Regulation 635-200, Chapter 14-12c, dated 13 June 2022, notified the applicant of initiating actions to separate them for Commission of a Serious Offense, for, on 2 June 2022, without authority, absent themselves from their unit, and did remain absent until 6 June 2022, when they were apprehended by civilian law enforcement. On the same day the applicant acknowledged receipt of notification for separation.

(5) On 21 June 2022, the applicant completed their election of rights signing they had been advised by counsel of the basis for the contemplated action to separation them for Commission of a Serious Offense under Army Regulation 635-200, paragraph 14-12c, and its effects and of the rights available to them; and of the effect of any action taken by them in waving their rights. They elected not to submit statements in their behalf and waived consulting counsel and representation. They understood that they may expect to encounter substantial prejudice in civilian life if a general (under honorable conditions) discharge is issued to them and they may be ineligible for many, or all benefits as a veteran under both Federal and State laws.

(6) A memorandum, Delta Company, 4th Battalion, 31st Infantry Regiment, subject: Commander's Report – Proposed Separation under Army Regulation 635-200, Chapter 14-12c, dated 21 June 2022, the applicant's company commander submitted the request to separate the applicant prior to their expiration term of service. The company commander states they do not consider it feasible or appropriate to accomplish other disposition as the applicant went AWOL and returned only when apprehended by civilian law enforcement.

(7) A memorandum, Headquarters, 2nd Brigade Combat Team, subject: Administrative Separation under Army Regulation 635-200, Chapter 14-12c, dated 22 June 2022, the separation authority, after careful consideration of all matters, directed the applicant be separated from the Army prior to their expiration of current term of service and their service be characterized as General (Under Honorable Conditions). After reviewing the rehabilitative transfer requirements, the commander determined the requirements are waived, as the transfer serves no useful purpose or will not produce a quality, Soldier.

(8) On 21 July 2022, the applicant was discharged accordingly, the DD Form 214 (Certificate of Release or Discharge from Active Duty) provides they completed 1 year, 6 months, and 13 days of net active service this period and did not complete their first full term of service obligation of 4 years and 23 weeks. Their DD Form 214 (Certificate of Release or Discharge from Active Duty) shows in:

- item 4a (Grade, Rate or Rank) – Private First Class
- item 4b (Pay Grade) – E-3
- item 12f (Effective Date of Pay Grade) – 5 January 2021
- item 24 (Character of Service) – General (Under Honorable Conditions)
- item 25 (Separation Authority) – Army Regulation 635-200
- item 26 (Separation Code) – JKF
- item 27 (Reentry Code) – 4
- item 28 (Narrative Reason for Separation) – Misconduct (Desertion)
- item 29 (Dates of Time Lost During this Period) – 2 June 2022 – 5 June 2022

(9) An Obituary, [www.NeptuneSociety.com](http://www.NeptuneSociety.com), reflects the death of the applicant's father, who died on 29 July 2022 in New Orleans, LA. In 2019, the applicant's father moved back to Louisiana.

i. **Lost Time / Mode of Return:** 4 days / Apprehended by Civilian Law Enforcement

**j. Behavioral Health Condition(s):** None

**5. APPLICANT-PROVIDED EVIDENCE:**

- DD Form 293 (Application for the Review of Discharge from the Armed Forces of the United States)
- DD Form 214
- State of Tennessee Final Decree of Divorce, 18 April 2023
- State of Louisiana Death Certificate, illegible

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with the 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), dated 19 December 2016, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(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) established policy and prescribed procedures for separating members for misconduct. 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. An absentee returned to military control from a status of AWOL or desertion may be separated for commission of a serious offense.

(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 "JKF" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 14-12c (1), Misconduct (Desertion).

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 85 (Desertion).

## 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 applicant's Army Military Human Resource Record (AMHRR) reflects the applicant received nonjudicial punishment for act of misconduct on two occasions and was involuntarily separated from the Army. The DD Form 214 provides the applicant was discharged

with a character of service of General (Under Honorable Conditions), for misconduct, (serious offense). They completed 1 year, 6 months, and 13 days of net active service this period; however, they did not complete their 4 years, 23-week contractual enlistment obligation.

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. 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. 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 diagnosis: Unspecified Anxiety Disorder with Panic Attacks.

(2) Did the condition exist, or experience occur during military service? **Yes.** Unspecified Anxiety Disorder with Panic Attacks.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that given this advisor's determination the applicant did have an impairing condition resulting in a repeat cycle of engaging in fleeing to reduce debilitating distress, the basis is 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. Based on liberally considering all the evidence before the Board, the ADRB determined that the applicant's Unspecified Anxiety Disorder with Panic Attacks outweighed the applicant's misconduct - Absent Without Leave (AWOL).

b. Response to Contention(s):

(1) The applicant contends their father was terminally ill while they were in the Army, and they were unable to see them during that time. They were unjustly not given the opportunity to see them in their final days and they made the choice to leave and go see them prior to their passing. The board determined that this contention was valid and voted to upgrade the characterization of service based on the applicant's Unspecified Anxiety Disorder with panic attacks mitigating the basis for separation (AWOL).

(2) The applicant contends at the same time they were experiencing a marital problem, which ultimately led to their divorce. The board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted as detailed in paragraphs 9a (3-4) and 9b (1).

(3) The applicant contends they were offered mental health services while they were in the Army, but they declined. The board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted as detailed in paragraphs 9a (3-4) and 9b (1).

(4) The applicant contends they feel the extreme stress of the situations led to their decision to take leave without permission. The board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted as detailed in paragraphs 9a (3-4) and 9b (1).

(5) The applicant contends they feel their conduct throughout their service was honorable, outside one event. Their honorable service should be considered when deciding their discharge upgrade. The board considered this contention and voted to upgrade to the characterization of service to honorable.

c. The board determined the discharge is inequitable based on the applicant's Unspecified Anxiety Disorder mitigating the applicant's misconduct – AWOL. 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 to misconduct (Minor Infractions), with a corresponding separation code of JKN, and changed the reentry code to RE3.

d. Rationale for Decision:

(1) The board voted to change the applicant's characterization of service to honorable because the applicant's Anxiety Disorder mitigated the misconduct (AWOL). 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 pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

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



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

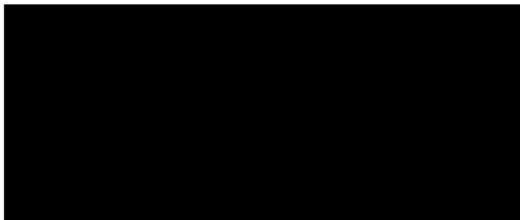
**AR20240000567**

**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: RE-3
- e. Change Authority to: AR 635-200, paragraph 14-12a

**Authenticating Official:**

9/16/2024



**Legend:**

AWOL – Absent Without Leave  
AMHRR – Army Military Human  
Resource Record  
BCD – Bad Conduct Discharge  
BH – Behavioral Health  
CG – Company Grade Article 15  
CID – Criminal Investigation  
Division  
ELS – Entry Level Status  
FG – Field Grade Article 15

GD – General Discharge  
HS – High School  
HD – Honorable Discharge  
IADT – Initial Active Duty Training  
MP – Military Police  
MST – Military Sexual Trauma  
N/A – Not applicable  
NCO – Noncommissioned Officer  
NIF – Not in File  
NOS – Not Otherwise Specified

OAD – Ordered to Active Duty  
OBH (I) – Other Behavioral  
Health (Issues)  
OMPF – Official Military  
Personnel File  
PTSD – Post-Traumatic Stress  
Disorder  
RE – Re-entry  
SCM – Summary Court Martial  
SPCM – Special Court Martial

SPD – Separation Program  
Designator  
TBI – Traumatic Brain Injury  
UNC – Uncharacterized  
Discharge  
UOTHC – Under Other Than  
Honorable Conditions  
VA – Department of Veterans  
Affairs