

1. Applicant's Name: [REDACTED]

a. Application Date: 8 May 2024

b. Date Received: 13 May 2024

c. Counsel: [REDACTED]
[REDACTED]

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, reentry code change and a narrative reason change.

The applicant through counsel states in effect, they enlisted in the Army with no previous mental health issues. While deployed they were subjected to multiple ambushes, firefights, and they witnessed the violent loss of human life. After deployment they returned to their duty station where they started exhibiting symptoms of PTSD, anxiety, and depressive disorders. The applicant began self-medicating with alcohol to deal with the symptoms of their mental health which exacerbated the effect of the Trazadone they were prescribed, doing so eventually caused a motor vehicle accident that severely injured them.

b. **Board Type and Decision:** In a telephonic personal appearance hearing conducted on 27 January 2025, and by a 5-0 vote, the board determined the discharge is inequitable based on the applicant's behavioral health diagnoses (Anxiety DO NOS, PTSD) and in service factors (length, combat, quality) outweighed the basis for separation – (DUI). Therefore, the board voted to grant relief in the form of an upgrade of the characterization of service to honorable and change to the narrative reason for separation to Misconduct (Minor Infractions) with a corresponding separation code of JKN. The board determined the reentry code is proper and equitable and voted not to change it.

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

(Board member names available upon request)

3. DISCHARGE DETAILS:

a. **Reason / Authority / Codes / Characterization:** Misconduct (Serious Offense) / AR 635-200 / JKQ / RE-3 / Under Honorable Conditions (General)

b. **Date of Discharge:** 29 November 2012

c. **Separation Facts:** AMHRR

(1) **Date of Notification of Intent to Separate:** 5 June 2012

(2) **Basis for Separation:** On 19 November 2011 the applicant wrongfully operated a vehicle resulting in injury to their spouse and their self.

(3) **Recommended Characterization:** General, under honorable conditions.

(4) **Legal Consultation Date:** 7 June 2012

(5) Administrative Separation Board: N/A

(6) Separation Decision Date / Characterization: 6 November 2012 / GD

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 16 July 2007 / 6 years, 19 weeks.

b. Age at Enlistment / Education / GT Score: 20 / associate degree / 112

c. Highest Grade Achieved / MOS / Total Service: E-5 / 88M2P Motor Transport Operator / 5 years, 4 months, 14 days.

d. Prior Service / Characterizations: None.

e. Overseas Service / Combat Service: Italy / Afghanistan; 20091215 – 20101215

f. Awards and Decorations: ACM-CS, AAM-4, AGCM, NDSM, GWTSM, ASR, OSR, NATO MDL

g. Performance Ratings: 20110401 – 20120331; Fair
20120401 – 20121128; Successful

h. Disciplinary Action(s) / Evidentiary Record:

(1) An Enlistment/ Reenlistment Document provides that the applicant enlisted in the Army Reserve at the pay grade of E-3 with an active duty obligation of 6 years and 19 weeks on 29 June 2007.

(2) On 8 February 2008 the applicant received a General Officer Memorandum of Reprimand (GOMOR). On 13 January 2008 they drove a motor vehicle while their blood alcohol level was .10 grams of alcohol per 210 liters of breath. A report indicates that the applicant was driving 76 miles per hour (MPH) in a 35 MPH zone.

(3) Orders 089-008 indicates that the applicant was promoted to Sergeant on 1 April 2011.

(4) A Military Police Report indicates that the applicant was involved in a traffic accident on 19 November 2011 at 0430. The applicant's blood was tested for alcohol content, their BAC was 1.84.

(5) A U.S Army Abbreviated Ground Accident Report indicates that on 19 November 2011, the applicant was involved in an accident off post, they were not wearing a seatbelt and they were driving under the influence of alcohol.

(6) Six documents of email communication from 23 November 2011 – 4 January 2012.

(7) A Sworn Statement document dated 26 January 2012.

(8) A Report of Mental Status Evaluation document dated 8 May 2012 indicates that the applicant received a separation evaluation.

(9) On 5 June 2012 the applicant's immediate commander notified them of their intent to separate them for Misconduct (Serious Offense). The commander recommended a general, under honorable conditions characterization of service. The applicant acknowledged the commander's notification and basis for separation, they consulted with counsel and completed their election of rights.

(10) An Administrative Separation Comments document indicates that the applicant's behavior was not isolated; it was documented in their previous unit in 2008.

- An Enlisted Record Brief (ERB) indicates that the applicant received a rank demotion to E-1 on 20 October 2008
- ERB indicates that the applicant deployed to Afghanistan from 15 December 2009 – 15 December 2010

(11) On 30 October 2012 the applicant received a GOMOR. On 19 November 2011, the applicant and their spouse were involved in a traffic accident, the applicant was driving at an excessive speed down a narrow road with limited visibility. They were not wearing a seatbelt and they both were admitted into the hospital with serious injuries, the applicant was admitted to ICU. The applicant appeared highly intoxicated and toxicology reports indicated that they had a BAC of 1.84 which was over the legal limit.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s): PTSD, other mental health

(1) Applicant provided: Service Treatment Records, Department of Veteran Affairs Rating Decision documents, Marcus Institute for Brain Health medical records, Initial Post Traumatic Stress Disorder (PTSD) Disability Benefits Questionnaire.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293, ERB, Recommendation for Award, AAM, DD Form 214, Report of Medical Examination, Statement in Support of Claim for Service Connection for PTSD, U.S. Army Abbreviated Ground Accident Report, Sworn Statement, Service Treatment records, Department of Veteran Affairs Rating Decision documents, Marcus Institute for Brain Health medical records, Initial Post Traumatic Stress Disorder (PTSD) Disability Benefits Questionnaire, PS Ambulatory document, Statement submitted by the applicant on 1 October 2024, and a Citizen Citation for Meritorious Service certificate in support of their application.

6. POST SERVICE ACCOMPLISHMENTS: The applicant received a Citizen Citation for Meritorious Service certificate on 11 May 2015.

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 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).

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 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

g. 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): 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, separation code change and a narrative reason change. 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 (UOTHC) 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. Seven months after they entered active duty, they received a GOMOR for driving while impaired and they received a pay grade reduction on 20 October 2008. The applicant deployed to

Afghanistan for twelve months and advanced to the rank of Sergeant. Thirteen months after they returned from deployment, they operated a motor vehicle while under the influence of alcohol (BAC 1.84) which resulted in serious injuries. The applicant received their second GOMOR, and they were subsequently processed for administrative separation.

c. The applicant was notified of the intent to separate them for commission of a serious offense, they acknowledged they understood the basis for separation under the provisions AR 635-200, CH 14-12c, they consulted with counsel and the appropriate authority approved the separation. A properly constituted DD Form 214, authenticated by the applicant's signature indicates that they were discharged under the provisions of AR 635-200, CH 14-12c, by reason of misconduct (Serious Offense) with a general, under honorable conditions characterization of service on 29 November 2012.

d. Chapter 14 establishes policy and prescribes procedures for members being separated for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. A discharge under other than honorable conditions is normally appropriate for a soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the soldier's overall record.

e. Published Department of Defense guidance indicates that the guidance is not intended to interfere or impede on the Board's statutory independence. The Board will determine the relative weight of the action that led to the discharge and whether it supports relief or not. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

(1) The applicant contends the narrative reason for the discharge needs to be changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12c, AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Misconduct (Serious Offense)," and the separation code is "JKQ." Army Regulation 635-8, Separation Processing and Documents, governs the preparation of the DD Form 214, and dictates the entry of the narrative reason for separation, and separation code, will be as listed in tables 2-2 or 2-3 of AR 635-5-1, Separation Program Designator (SPD) Codes. The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

(2) The applicant contends the separation code (SPD) should be changed. Separation codes are three-character alphabetic combinations that identify reasons for, and types of, separation from active duty. The primary purpose of SPD codes is to provide statistical accounting of reasons for separation. They are intended exclusively for the internal use of DoD and the Military Services to assist in the collection and analysis of separation data. SPD Codes are controlled by OSD and then implemented in Army policy AR 635-5-1 to track types of separations the SPD code specified by Army Regulations for a discharge under Chapter 14, paragraph 14-12c, is "JKQ." Army Regulation 635-8, Separation Processing and Documents, governs the preparation of the DD Form 214, and dictates the entry of the separation code entered in block 26 of the form, will be as listed in tables 2-2 or 2-3 of AR 635-5-1, Separation Program Designator (SPD) Codes. The regulation stipulates no deviation is authorized. There is no provision for any other SPD code to be entered under this regulation.

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/ Ms. Alice Hansen and Mr. Michael Foley**

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 Disorder (50%SC). [Note-Diagnosis of Adjustment DO is subsumed under diagnosis of Anxiety DO].

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found VA service connection of Anxiety DO establishes nexus with military 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 that the applicant has two mitigating BH conditions, Anxiety DO NOS and PTSD. As there is an association between these two conditions and self-medication with alcohol, there is a nexus between these two conditions and the applicant's DUI. The applicant also contends that that alcohol, with which he was "self-medicating", exacerbated the effects of the trazodone he had been prescribed for sleep. This contention is not supported by the medical record. A 5 Aug 2011 psychiatry note documents that the applicant reported no side effects of trazodone. He also stated that a bottle of 30 tablets of trazodone was lasting him six months. This amounts to 5 tablets of trazodone per month or one tab every six days. Such intermittent, low dosing would be more unlikely than not to cause mental impairment in the presence of alcohol.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the board determined that the applicant's mitigated behavioral diagnosis (Anxiety DO NOS, PTSD) and length of service mitigated the misconduct (DUI).

- b. Response to Contention(s):**

(1) The applicant through counsel contends their discharge should be upgraded to honorable on the basis of equity, as the applicant's command did not consider their otherwise honorable and meritorious service. The board reviewed this contention during the proceedings but ultimately did not address it, as the applicant was granted an upgrade based on their mitigated behavioral diagnoses (Anxiety Disorder NOS, PTSD) and their length of service.

(2) The applicant through counsel contends their separation was based on misconduct caused by PTSD, anxiety, and depressive disorder. The board reviewed this contention during

the proceedings but ultimately did not address it, as the applicant was granted an upgrade based on their mitigated behavioral diagnoses (Anxiety Disorder NOS, PTSD) and their length of service.

c. The board concluded that the applicant's discharge was inequitable, considering their behavioral health diagnoses (Anxiety Disorder NOS and PTSD) and in service factors (length, quality, combat), which mitigated the misconduct (DUI) that served as the basis for separation. As a result, the board voted to grant relief by upgrading the characterization of service to honorable. Additionally, the separation authority was changed to AR 635-200, paragraph 14-12a, with the narrative reason for separation updated to "Misconduct (Minor Infractions)" and a corresponding separation code of JKN. The applicant has exhausted all appeal options available through the Army Discharge Review Board (ADRB). However, they may still submit an application to the Army Board for Correction of Military Records (ABCMR). It is the applicant's responsibility to provide sufficient evidence or documentation to support their claim that the discharge was improper or inequitable.

d. Rationale for Decision:

(1) The board voted to upgrade the applicant's characterization of service to honorable, determining that the applicant's mitigating behavioral health conditions (Anxiety Disorder NOS and PTSD) along with in service factors (length, quality, combat), outweigh the misconduct (DUI). As a result, the previous characterization is deemed 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 not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

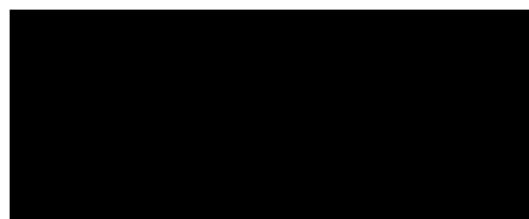
ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE
AR20240006369

11. BOARD ACTION DIRECTED:

- d. Issue a New DD-214:** Yes
- e. Change Characterization to:** Honorable
- f. Change Reason / SPD code to:** Misconduct (Minor Infractions)/JKN
- g. Change RE Code to:** No Change
- h. Change Authority to:** AR 635-200, paragraph 14-12a.

Authenticating Official:

7/21/2025



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