

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20240013400

1. Applicant's Name: [REDACTED]

a. Application Date: 10 December 2024

b. Date Received: 10 December 2024

c. Counsel: [REDACTED]

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:

a. Applicant Requests: The current characterization of service for the period under review is general (under honorable conditions). The applicant requests an upgrade to honorable along with a separation program designator (SPD) code a narrative reason change.

b. Applicant Contention(s)/Issue(s): The applicant requests relief contending, in effect, the applicant's service-connected post-traumatic stress disorder (PTSD) and traumatic brain injury (TBI) resulted in changes in the applicant's behavior and were the proximate cause of the misconduct which led to the separation. The applicant's use of alcohol was due to self-medicating because of PTSD brought on by combat that also resulted in a TBI. Prior to being wounded in combat, the applicant was an excellent soldier. The applicant was awarded the Purple Heart and Combat Action Badge for injuries sustained in combat. The applicant was also awarded the Army Commendation Medal. The applicant was awarded a 70-percent service-connected disability rating by the Department of Veteran Affairs for PTSD with major depressive disorder and TBI.

c. Board Type and Decision: In a records review conducted on 7 April 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's length and quality of service, and the circumstances surrounding the discharge (PTSD with MDD and TBI). Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed the separation authority to AR 635-200, paragraph 14- 12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN. The Board determined the reentry code is proper and equitable and voted not to change it.

Please see **Board Discussion and Determination** section for more detail regarding the Board's decision.

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: 27 September 2010

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 23 July 2010

(2) Basis for Separation: The applicant was informed of the following reasons: On 18 February 2010, the applicant was found drunk on duty; on 1 February 2010, the applicant

was disrespectful in language to a noncommissioned officer; and on 1 February 2010, the applicant failed to go to the appointed place of duty.

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

(4) Legal Consultation Date: 7 September 2010

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 13 September 2010 / General (Under Honorable conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 3 January 2007 / 4 years, 17 weeks

b. Date / Period of Reenlistment(s): NA

c. Age at Enlistment / Education / GT Score: 19 / GED / 105

d. Highest Grade Achieved / MOS / Total Service: E-4 / 13F10, Fire Support Specialist / 3 years, 8 months, 25 days

e. Prior Service / Characterizations: NA

f. Overseas Service / Combat Service: SWA / Afghanistan (30 June 2008 – 10 June 2009)

g. Awards and Decorations: PH, ARCOM, AGCM, NDSM, ACM-CS-2, GWOTSM, ASR, OSR, NATO MDL, CAB

h. Performance Ratings: NA

i. Disciplinary Action(s) / Evidentiary Record:

(1) Field Grade Article 15, 5 March 2010, reflects on or about 1 February 2010, the applicant failed to go the appointed place of duty; on or about 1 February 2010, the applicant disobeyed a lawful order; on or about 1 February 2010, the applicant was disrespectful in language towards a noncommissioned officer; ; on or about 18 February 2010, the applicant was derelict in the performance of duty in that the applicant failed to refrain drinking on duty; and on or about 1 February 2010, as a result of wrongful previous overindulgence in intoxicating liquor or drugs the applicant was incapacitated for the proper performance of duties. The punishment consisted of reduction to private/E-1; forfeiture of \$723 pay per month for 2 months; and extra duty for 45 days.

(2) Report of Mental Status Evaluation (MSE), 12 July 2010, reflects the applicant had the mental capacity to understand and participate in the proceedings and was mentally responsible. The applicant was able to distinguish right from wrong and adhere to the right. The applicant was psychiatrically cleared for any administrative action deemed appropriate by command.

(3) The applicant was counseled on multiple occasions for various forms of misconduct.

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

k. **Behavioral Health Condition(s):** The following documents have been provided to the ARBA Medical Advisor, if applicable. See “**Board Discussion and Determination**” for Medical Advisor Details.

(1) **Applicant provided:** The applicant provides a VA Disability Rating which reflects the applicant was awarded a combined disability rating of 90-percent with a 70-percent rating for PTSD with major depressive disorder and TBI.

(2) **AMHRR provided:** None

5. **APPLICANT-PROVIDED EVIDENCE:** DD Form 293, Brief in Support of Application, VA Disability Ratings, DA Form 638 (Recommendation for Award)

6. **POST SERVICE ACCOMPLISHMENTS:** The applicant is working as an accountant, enrolled in college, and is a member of the local VFW being trained as a Veteran Services Officer.

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. Office, Secretary of Defense memorandum (Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder), 3 September 2014, directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

c. Office, Under Secretary of Defense memorandum (Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment), 25 August 2017 issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based

in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

d. Office, Under Secretary of Defense memorandum (Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations), 25 July 2018 issued guidance to Military DRBs and BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

(1) This guidance does not mandate relief but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, DRBs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement that a relevant error or injustice was committed, and uniformity of punishment.

(2) Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

e. 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.

f. 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. It states:

(a) 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.

(b) 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.

(2) 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. 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.

(3) 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. If Secretarial Authority is granted normally correct the record to show the following:

- Separation Authority: Army Regulation 635-200, Chapter 15
- Separation Code: JFF
- Reenlistment Code: RE1
- Narrative Reason for Separation: Secretarial Plenary Authority
- Character of Service: Honorable

(4) 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 "JKA" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14-12b, Pattern of Misconduct.

8. SUMMARY OF FACT(S): Standard of Review. 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 along with an SPD code and a narrative reason change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

b. The applicant requests the SPD code and narrative reason be changed. The applicant was separated under the provisions of Army Regulation 635-200, Chapter 14-12b, due to Pattern of Misconduct, with a General (Under Honorable Conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this chapter is "Pattern of Misconduct" and the separation code is "JKA." Army Regulation 635-8, Separation Documents governs the preparation of the DD Form 214 and dictates the entry of the narrative reason for separation, entered in block 28 and 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 reason or SPD code to be entered under this regulation.

c. The applicant completed 3 years, 8 months, and 25 days of a 4-year, 17-week enlistment.

d. The applicant contends the applicant's service-connected PTSD and TBI resulted in changes in the applicant's behavior and were the proximate cause of the misconduct which led to the separation. The applicant also contends the applicant's use of alcohol was due to self-medicating because of the PTSD brought on by combat that also resulted in a TBI.

e. The applicant's AMHRR is void of a PTSD or TBI diagnosis. The evidence reflects the applicant underwent a MSE on 12 July 2010, which reflects the applicant had the mental capacity to understand and participate in the proceedings and was mentally responsible. The applicant was able to distinguish right from wrong and adhere to the right. The applicant was psychiatrically cleared for any administrative action deemed appropriate by command. The applicant provides a VA Disability Rating which reflects the applicant was awarded a combined disability rating of 90-percent with a 70-percent rating for PTSD with major depressive disorder and TBI.

e. The applicant states prior to being wounded in combat, the applicant was an excellent soldier and was awarded the Purple Heart and Combat Action Badge for injuries sustained in combat. The applicant was also awarded the Army Commendation Medal. The applicant was awarded a 70-percent service-connected disability rating by the Department of Veteran Affairs for PTSD with major depressive disorder and TBI.

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):** -Board conducted a records review on this applicant.

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: PTSD, MDD, mild TBI. [Note-Diagnosis of Anxiety DO NOS is subsumed under diagnosis of PTSD.]

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found Anxiety DO NOS was diagnosed during active service. Service connection for PTSD with MDD and TBI establishes nexus with active 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 has several mitigating BH conditions, PTSD with MDD and TBI. As there is an association between these conditions, self-medication with alcohol or illicit drugs, difficulty with authority figures and avoidance behavior, there is a nexus between these conditions and the applicant's offenses of being drunk on duty, disrespecting a NCO and failing to be at his appointed place of duty.

(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 reason(s).

b. Prior Decisions Cited: NA – Applies to Personal Appearances only.

c. Response to Contention(s):

(1) The applicant contends the applicant's service-connected PTSD and TBI resulted in changes in the applicant's behavior and were the proximate cause of the misconduct which led to the separation.

The Board considered this contention valid.

(2) The applicant also contends the applicant's use of alcohol was due to self-medicating because of the PTSD brought on by combat that also resulted in a TBI. The Board determined that this contention was valid and voted to upgrade the characterization of service due to PTSD mitigating the applicant's basis for separation (drunk on duty, disrespect toward an NCO, and failure to report).

d. The Board determined the discharge is inequitable based on the applicant's length and quality of service, and the circumstances surrounding the discharge (PTSD with MDD and TBI). Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed the separation authority to AR 635-200, paragraph 14- 12a, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN. 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 because the applicants (PTSD with MDD and TBI) mitigated the applicant's misconduct (drunk on duty, disrespect toward an NCO, and failure to report). 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.

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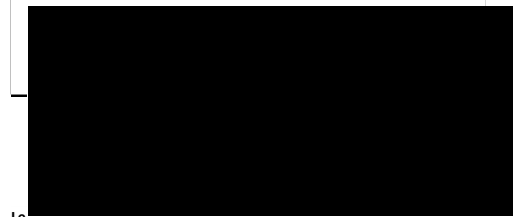
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11. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: Yes
- b. Change Characterization to: Honorable
- c. Change Reason / SPD Code to: Misconduct (Minor Infractions)/JKN
- d. Change RE Code to: No change
- e. Change Authority to: AR 635-200

Authenticating Official:

4/18/2025



Le

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
FTR – Failure to Report

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