

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

- a. **Application Date:** 26 April 2021
- b. **Date Received:** 26 April 2021
- c. **Counsel:** None

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

- a. **Applicant's Requests and Issues:** The current characterization of service for the period under review is general (under honorable conditions). The applicant requests an upgrade honorable.

The applicant seeks relief contending, in effect, the discharge was inequitable considering the applicant's prior honorable service, deployment in a designated imminent danger pay area, and subsequent diagnosis of post-traumatic stress disorder (PTSD) in 2011 prior to the misconduct leading to separation. The applicant acknowledged using synthetic marijuana as a coping mechanism for untreated PTSD symptoms and admitted to usage when confronted by leadership. The applicant voluntarily participated in an Intensive Outpatient Program and later admitted themselves into a rehabilitation center. Despite efforts to seek treatment, the applicant was not afforded the opportunity to present mitigating circumstances before discharge proceedings began. The applicant respectfully requests a discharge upgrade to access educational benefits through the Post-9/11 GI Bill to support their family and pursue a stable career path.

- b. **Board Type and Decision:** In a records review conducted on 27 May 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder and Depression outweighing the applicant's illegal substance abuse offense. 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 Section 9 of this document for more detail regarding the Board's decision.

(Board member names available upon request)

3. **DISCHARGE DETAILS:**

- a. **Reason / Authority / Codes / Characterization:** Misconduct (Serious Offense) / AR 635-200, Chapter 14-12c / JKQ / RE-3 / General (Under Honorable Conditions)

- b. **Date of Discharge:** 24 May 2011

- c. **Separation Facts:**

- (1) **Date of Notification of Intent to Separate:** 11 April 2011

- (2) **Basis for Separation:** The unit commander informed the applicant under the provisions of AR 635-200, Chapter 14-12c, of the following reasons: The applicant violated AR 600-85, Paragraph 4-2p by admitting to using synthetic cannabinoid agonist or piperazines

(Spice). The command notified the applicant their service may be characterized as honorable or under honorable conditions.

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

(4) Legal Consultation Date: 12 April 2011

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 26 April 2011 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 28 March 2007 / 3 years, 17 weeks

b. Age at Enlistment / Education / GT Score: 20 / GED / 91

c. Highest Grade Achieved / MOS / Total Service: E-4 / 19K1O, M1 Armor Crewman / 4 years, 1 month, 27 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Germany, SWA / Iraq (1 April 2008 – 9 May 2009)

f. Awards and Decorations: AGCM, NDSM, ICM-CS, ASR, OSR-2, CAB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: FG Record of Proceedings under Article 15, Uniform Code of Military Justice, 8 February 2011, for between on or about 1 July 2010 to 18 January 2011 because of a violation of a general order to wit: paragraph 4-2(p) Army Regulation 600-85 by wrongfully using synthetic cannabinoid agonists or piperazines. The punishment consisted of a reduction to E-1, forfeiture of \$733 pay per month for two months (suspended), and extra duty and restriction for 45 days.

Army Substance Abuse Program (ASAP) Enrollment form (page 2), 25 January 2011, reflects the applicant was enrolled in ASAP after a hospital intervention. The applicant was to receive bi-weekly meetings.

Six Developmental Counseling Forms for failure to show for accountability formation, lying to a senior noncommissioned officer, assault, false official statements, absent without leave and failure to turn in assigned essay.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant Provided: Behavioral Health System Psychiatric Evaluation, 11 February 2011, reflects the applicant was evaluated to be admitted to an inpatient program because of relapse of Spice. They had a history of spice and found it hard to stay sober due to work stress. The applicant discussed combat incidents where their vehicle was hit and several

of their battle buddies were hurt including a close friend who died. The applicant was prescribed medication one of which they used more than prescribed. The applicant had temper problems and could not relax. They had insomnia and could not fall asleep because of nightmares.

Behavioral Health System History and Physical, 11 February 2011, reflects the applicant was admitted because of cannabis dependency and PTSD. The applicant had no history of alcohol abuse. It was recommended the applicant to go back to intensive outpatient and follow up with the ASAP program and the applicant attended marital therapy.

Psychiatry Clinic Chronological Record of Medical Care, 4 August 2010, reflects the applicant had a history of adjustment disorder, adjustment disorder with anxiety and depressed mood, alcoholism, and depression. The applicant self-referred noting stress and lack of sleep. A psychiatric exam was performed, and the applicant was diagnosed with depressive disorder, and PTSD.

(2) AMHRR Listed: Mental Status Evaluation, 19 January 2011, reflects the applicant needed further examination due to positive screen on PC-PTSD tool and mTBI screening. The applicant was mentally responsible, had a clear thinking process, and had the mental capacity to understand and participate in the proceedings. The clinician recommended the command to refer the applicant for command directed evaluation/ fit for duty evaluation.

The ARBA's medical advisor reviewed DoD and VA medical records, including documents listed in 4j(1) and (2) above.

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; Behavioral Health System Psychiatric Evaluation; Behavioral Health System History and Physical; Chronological Record of Medical Care; two ARCOM Medal Certificates; Certificate of Release or Discharge from Active Duty.

6. POST SERVICE ACCOMPLISHMENTS: None submitted with the application.

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

a. Section 1553, Title 10, United States Code (Review of Discharge or Dismissal) provides for the creation, composition, and scope of review conducted by a Discharge Review Board(s) within established governing standards. As amended by Sections 521 and 525 of the National Defense Authorization Act for Fiscal Year 2020, 10 USC 1553 provides specific guidance to the Military Boards for Correction of Military/Naval Records and Discharge Review Boards when considering discharge upgrade requests by Veterans claiming Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), sexual trauma, intimate partner violence (IPV), or spousal abuse, as a basis for discharge review. The amended guidance provides that Boards will include, as a voting board member, a physician trained in mental health disorders, a clinical psychologist, or a psychiatrist when the discharge upgrade claim asserts a mental health condition, including PTSD, TBI, sexual trauma, IPV, or spousal abuse, as a basis for the discharge. Further, the guidance provides that Military Boards for Correction of Military/Naval Records and Discharge Review Boards will develop and provide specialized training specific to sexual trauma, IPV, spousal abuse, as well as the various responses of individuals to trauma.

b. Multiple Department of Defense Policy Guidance Memoranda published between 2014 and 2018. The documents are commonly referred to by the signatory authorities' last names (2014 Secretary of Defense Guidance [Hagel memo], 2016 Acting Principal Deputy Under Secretary of Defense for Personnel and Readiness [Carson memo], 2017 Official Performing

the Duties of the Under Secretary of Defense for Personnel and Readiness [Kurta memo], and 2018 Under Secretary of Defense for Personnel and Readiness [Wilkie memo].

(1) Individually and collectively, these documents provide further clarification to the Military Discharge Review Boards and Boards for Correction of Military/Naval Records when considering requests by Veterans for modification of their discharge due to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Liberal consideration will be given to Veterans petitioning for discharge relief when the application for relief is based in whole or in part on matters relating to mental health conditions, including PTSD; TBI; sexual assault; or sexual harassment. Special consideration will be given to Department of Veterans Affairs (VA) determinations that document a mental health condition, including PTSD; TBI; or sexual assault/harassment potentially contributed to the circumstances resulting in a less than honorable discharge characterization. Special consideration will also be given in cases where a civilian provider confers diagnoses of a mental health condition, including PTSD; TBI; or sexual assault/harassment if the case records contain narratives supporting symptomatology at the time of service or when any other evidence which may reasonably indicate that a mental health condition, including PTSD; TBI; or sexual assault/harassment existed at the time of discharge might have mitigated the misconduct that caused a discharge of lesser characterization.

(2) Conditions documented in the service record that can reasonably be determined to have existed at the time of discharge will be considered to have existed at the time of discharge. In cases in which a mental health condition, including PTSD; TBI; or sexual assault/harassment may be reasonably determined to have existed at the time of discharge, those conditions will be considered potential mitigating factors in the misconduct that caused the characterization of service in question. All Boards will exercise caution in weighing evidence of mitigation in cases in which serious misconduct precipitated a discharge with a less than Honorable characterization of service. Potentially mitigating evidence of the existence of undiagnosed combat related PTSD, PTSD-related conditions due to TBI or sexual assault/harassment as causative factors in the misconduct resulting in discharge will be carefully weighed against the severity of the misconduct. PTSD is not a likely cause of premeditated misconduct. Caution shall be exercised in weighing evidence of mitigation in all cases of misconduct by carefully considering the likely causal relationship of symptoms to the misconduct.

c. Army Regulation 15-180 (Army Discharge Review Board), 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 (Active Duty Enlisted Administrative Separations), provides the basic authority for the separation of enlisted personnel.

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

(2) Paragraph 3-7a states an Honorable discharge is a separation with honor and is appropriate when the quality of the Soldier's service generally has met the standards of acceptable conduct and performance of duty for Army personnel or is otherwise so meritorious that any other characterization would be clearly inappropriate.

(3) Paragraph 3-7b states a General discharge is a separation from the Army under honorable conditions and is issued to a Soldier whose military record is satisfactory but not sufficiently meritorious to warrant an honorable discharge.

(4) Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

(5) Paragraph 14-3 prescribes a discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

(6) Paragraph 14-12c prescribes 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.

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 waivable and nonwaivable separations. Table 3-1, defines reentry eligibility (RE) codes: RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. Eligibility: Ineligible unless a waiver is granted.

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

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

The applicant was discharged under the provisions of AR 635-200, Chapter 14-12c, because the applicant violated AR 600-85, Paragraph 4-2p by admitting to using synthetic cannabinoid agonist or piperazines (Spice).

The applicant contends the discharge was inequitable considering the applicant's prior honorable service, deployment in a designated imminent danger pay area, and subsequent diagnosis of post-traumatic stress disorder (PTSD) in 2011 prior to the misconduct leading to separation. The applicant provided documentation from their inpatient behavioral health treatment which described the applicant's diagnosis of PTSD, and behavior which supported the applicant's contention. The applicant's AMHRR contains documentation supporting an in-

service diagnosis. The record shows the applicant underwent a mental status evaluation (MSE) on 19 January 2011, which indicates the applicant was mentally responsible and was able to recognize right from wrong and needed further evaluation. The separation authority considered the MSE. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28

The applicant contends voluntarily participating in an Intensive Outpatient Program and later admitted themselves in a rehabilitation center. Despite efforts to seek treatment, the applicant was not afforded the opportunity to present mitigating circumstances before discharge proceedings began. The AMHRR reflects in the commander's notification the applicant was told to execute the attached acknowledgment and return it within 7 duty days from the date of receipt. Any statement the applicant desired to submit on their behalf must be received by the commander within 7 duty days from receipt of the letter, unless the applicant requested and received an extension for good cause shown. The acknowledgement of notification, 12 April 2011, reflects the applicant elected not to submit statements on their behalf. The acknowledgement was signed by the applicant and their counsel. The AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

The applicant requests an upgrade to allow access to educational benefits through the Post-9/11 GI Bill to support their family and pursue a stable career path. Eligibility for veterans' benefits, including educational benefits under the Post-9/11 or Montgomery GI Bill, does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local Department of Veterans Affairs office for further assistance.

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 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: Adjustment Disorder, PTSD.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board found that the applicant was diagnosed in service with an Adjustment Disorder, PTSD, Depression and is service connected by the VA for the PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions mitigate the discharge. Given the nexus between PTSD, Depression, and using substances for self-medication, the Spice use that led to the applicant's separation is mitigated.

(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 Post Traumatic Stress Disorder and Depression outweighed the applicant's illegal substance abuse.

b. Response to Contention(s):

(1) The applicant contends the discharge was inequitable considering the applicant's prior honorable service, deployment in a designated imminent danger pay area, and subsequent diagnosis of post-traumatic stress disorder (PTSD) in 2011 prior to the misconduct leading to

separation. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder and Depression outweighed the applicant's illegal substance abuse.

(2) The applicant contends voluntarily participating in an Intensive Outpatient Program and later admitted themselves into a rehabilitation center.

(3) The applicant requests a discharge upgrade to access educational benefits through the Post-9/11 GI Bill to support their family and pursue a stable career path. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

c. The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder and Depression outweighing the applicant's illegal substance abuse offense. 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.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Post Traumatic Stress Disorder and Depression outweighed the applicant's illegal substance abuse offense. 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 not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

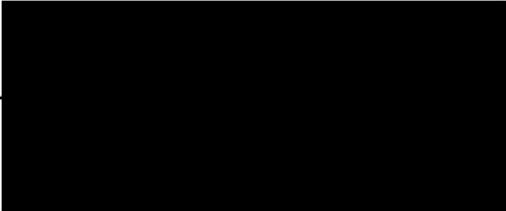
ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE
AR20210000044

10. 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:

6/30/2025



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