

**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 to honorable.

The applicant seeks relief contending, in effect, their discharge was inequitable because it was based on a single isolated incident of marijuana use for sleep problems after 2.5 years of exemplary service, including a deployment to Iraq. The applicant contends unfair treatment compared to other Soldiers with multiple positive urinalysis results who only received an Article 15. The applicant contends they were not given a second chance despite their prior exemplary service and were discharged only four months before their expected honorable ETS date.

**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 outweighing the applicant's illegal substance abuse offenses. 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 details regarding the Board's decision.*

*Board member names available upon request.*

**3. DISCHARGE DETAILS:**

**a. Reason / Authority / Codes / Characterization:** Misconduct (Drug Abuse) / AR 635-200, Chapter 14-12c (2) / JKK / RE-4 / General (Under Honorable Conditions)

**b. Date of Discharge:** 8 June 2010

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 20 May 2010

**(2) Basis for Separation:** The applicant was informed of the following reasons: Testing positive for marijuana on two urinalyses taken on 5 January 2010 and 8 March 2010.

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

**(4) Legal Consultation Date:** On 21 May 2010, the applicant waived legal counsel.

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

**(6) Separation Decision Date / Characterization:** In an undated memorandum, the separation authority approved the applicant's separation under the provisions of AR 635-200, Chapter 14-12c(2), Commission of a Serious Offense. / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

- a. **Date / Period of Enlistment:** 12 September 2007 / 3 years, 20 weeks
- b. **Age at Enlistment / Education / GT Score:** 21 / High School Graduate / 104
- c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 88M1O, Motor Transport Operator / 2 years, 8 months, 6 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** SWA / Iraq (11 June 2008 – 29 May 2009)
- f. **Awards and Decorations:** ICS-2CS, ARCOM, MUC, NDSM, GWOTSM, ASR, OSR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** Electronic Copy of Specimen Custody Document – Drug Testing, 15 January 2010, reflects the applicant tested positive for THC 43 (marijuana) during an Inspection Unit (IU) urinalysis testing conducted on 5 January 2010.

Waiver of Rights to Defense Counsel During Article 15 Formal Proceedings Form, 10 February 2010, reflects the applicant elected to fully present their case to their commander.

FG Record of Proceedings under Article 15, Uniform Code of Military Justice, 19 February 2010, for wrongfully using marijuana (between 5 December 2009 and 5 January 2010). The punishment consisted of a reduction to E-1, forfeiture of \$723 pay per month for two months, and extra duty and restriction for 45 days.

Electronic Copy of Specimen Custody Document – Drug Testing, 18 March 2010, reflects the applicant tested positive for THC 93(marijuana) during an Inspection Unit (IU) ) urinalysis testing conducted on 8 March 2010.

Chapter Recommendation Memorandum for Record, 18 May 2010, reflects an account of the applicant's behavior by the company commander. The memorandum stated the applicant arrived at the unit in June 2008. Over the next several months, the applicant committed numerous minor infractions and tested positive twice for illegal substances. The applicant then underwent approximately two months of rehabilitation at ASAP for behavior-related problems. The treatment did not resolve the applicant issues, and the applicant still could not appropriately interact with peers. The applicant consistently displayed an inability to grasp simple concepts and was easily agitated by interactions and tasks other Soldiers performed with ease. The applicant former chain of command agreed with this assessment of the applicant prior performance. Despite a deployment, the applicant did not have any service awards in their record. After consulting with senior Noncommissioned Officers, it was recommended the applicant be separated under Chapter 14-12c.

- i. **Lost Time / Mode of Return:** None

**j. Behavioral Health Condition(s):**

**(1) Applicant provided:** Mental Status Evaluation (MSE), 1 February 2010, reflects the applicant's level of alertness was somnolent. The applicant was mentally responsible, had a clear thinking process, and had the mental capacity to understand and participate in the proceedings. The applicant needed further examination. The applicant's diagnosis was deferred to rule out PTSD. It was noted the applicant may not meet the retention standards prescribed in Chapter 3, AR 40-501 and there may have been a psychiatric disease or defect which warranted a disposition through medical channels. The applicant needed further evaluation through mental health prior to any administrative action deemed appropriate by the command including a Chapter 14-12 discharge. The applicant attempted to obtain mental health services for multiple symptoms including hyper vigilance, difficulties concentrating, sleep disturbance, feelings of worthlessness, nightmares since return from deployment. Use of substance was for sleep and not report as usual behavior. The applicant was screened for PTSD and mTBI. The PCL-M score was 60, suggestive of PTSD. The mTBI screen was remarkable for fall during deployment that led to LOC.

**(2) AMHRR Listed:** MSE as described in previous paragraph 4i(1).

Mental Status Evaluation, 11 April 2010, reflects the applicant was cleared to be administratively separated in accordance with AR 635-200, Chapter 14-12. The applicant was cleared for separation actions deemed appropriate by the command. The applicant was mentally responsible, had a clear thinking process, and had the mental capacity to understand and participate in the proceedings. The applicant mood was anxious, and their thought content included paranoid ideation and delusions of grandeur of reference. The applicant had a history of mTBI. The applicant was diagnosed with adjustment disorder with anxiety. The evaluator advised the applicant to continue to attend all scheduled appointments at the CRDAMC Resilience and Restoration Center.

Mental Status Evaluation, 17 May 2010, reflects the applicant was mentally responsible, had a clear thinking process, and had the mental capacity to understand and participate in the proceedings. The evaluation concluded the applicant might not meet the retention standards prescribed in Chapter 3, AR 40-501, and a psychiatric disease or defect may warrant disposition through medical channels. The evaluation also concluded continued service might result in increased risk of harm to self or others and limit the applicant's ability to deploy and satisfy duties as required by the applicant MOS. The applicant was mentally responsible, able to distinguish right from wrong and to adhere to the right and had the mental capacity to understand and participate in administrative proceedings. The evaluation recommended the command not allow the applicant to deploy unless cleared by a credentialed mental health provider.

*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; Mental Status Evaluation; Separation Orders; 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(2) terms abuse of illegal drugs as serious misconduct. It continues; however, by recognizing relevant facts may mitigate the nature of the offense. Therefore, a single drug abuse offense may be combined with one or more minor disciplinary infractions or incidents of other misconduct and processed for separation under paragraph 14-12a or 14-12b as appropriate.

**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 "JKK" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, misconduct (drug abuse).

**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-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.

**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 contends their discharge was inequitable because it was based on a single isolated incident of marijuana use for sleep problems. Army Regulation 635-200, paragraph 3-5, in pertinent part, stipulates there are circumstances in which the conduct or performance of duty reflected by a single incident provides the basis for a characterization.

The applicant contends being discharged after 2.5 years of exemplary service, including a deployment to Iraq. The applicant contends good service, including a combat tour. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends unfair treatment compared to other Soldiers with multiple positive urinalysis results who only received an Article 15. The DODI 1332.28 provides each case must be decided on the individual merits and on a case-by-case basis, considering the unique facts and circumstances of the case. Additionally, when an applicant cites a prior decision of the ADRB, another agency, or a court, the applicant shall describe the specific principles and facts contained in the preceding decision and explain the relevance of the cited matter to the applicant's case. The Board is independent, not bound by prior decisions in reviewing subsequent cases because no two cases present the same issues. The AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends they were not given a second chance despite their prior exemplary service and were discharged only four months before their expected honorable ETS date. Army Regulation 635-200, paragraph 1-17d(2), entitled Counseling and rehabilitative requirements, states the separation authority may waive the rehabilitative requirements in circumstances where common sense and sound judgment indicate such a transfer will serve no useful purpose or produce a quality Soldier.

#### **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: PTSD, Other Specified Trauma and Stress Related Disorder, Adjustment Disorder, and Psychosis.

**(2)** Did the condition exist, or experience occur during military service? **Yes.** The Board found the applicant is 100 percent service connected for PTSD.

**(3)** Does the condition or experience 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 and the use of substances to self-medicate, the applicant's misconduct characterized by wrongful use of marijuana 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 outweighed the applicant's illegal substance abuse offenses.

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

(1) The applicant contends their discharge was inequitable because it was based on a single isolated incident of marijuana for sleep problems. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder outweighed the applicant's illegal substance abuse offenses.

(2) The applicant contends being discharged after 2.5 years of exemplary service, including a deployment to Iraq. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse offenses.

(3) The applicant contends unfair treatment compared to other Soldiers with multiple positive urinalysis results who only received an Article 15. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse offenses.

(4) The applicant contends they were not given a second chance despite their prior exemplary service and were discharged only four months before their expected honorable ETS date. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse offenses.

**c.** The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse offenses. 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 outweighed the applicant's illegal substance abuse offenses. Thus, the prior characterization is no longer appropriate.

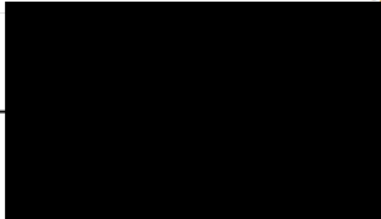
(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts. Thus, the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

(3) The RE code will not change given the BH conditions and service connection. The current code is consistent with the procedural and substantive requirements of the regulation.

**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE****AR20210000209****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:**

	5/28/2025
	

**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