

**1. Applicant's Name:**

- 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 period under review is under other than honorable conditions. The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, their discharge was inequitable due to untreated service-connected injuries and mental health conditions, including PTSD, memory loss, and chronic pain resulting from a head, neck, and back injury sustained during deployment in 2005. They assert despite experiencing significant symptoms, they did not receive proper medical attention, leading to ongoing health complications, including headaches, anger issues, and destructive behavior. The applicant contends the discharge was for misconduct due to marijuana use, which they used as a coping mechanism for unaddressed physical, mental, and emotional distress. They argue their chain of command failed to provide counseling, educate them on substance abuse programs, or offer appropriate support. They also contend their discharge was harsher than others in their unit who engaged in similar or more severe misconduct, such as using other controlled substances or theft. The applicant states they continue to suffer from untreated medical and psychological conditions, including PTSD symptoms, paranoia in public spaces, and sleep disturbances. They request an upgrade to their discharge to gain access to VA healthcare and receive necessary treatment for service-connected conditions.

b. **Board Type and Decision:** In a records review conducted on 15 April 2025, and by a 5-0 vote, the Board denied the request upon finding the separation was both proper and equitable.

*Please see **Board Discussion and Determination** section 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 / Under Other Than Honorable Conditions

b. **Date of Discharge:** 18 August 2006

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 22 June 2006

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant received a Field Grade Article 15 for violation of Article 112a, wrongful use and distribution of marijuana.

**(3) Recommended Characterization:** Under Other Than Honorable Conditions

**(4) Legal Consultation Date:** 22 June 2006

**(5) Administrative Separation Board:** On 22 June 2006, the applicant unconditionally waived consideration of the case before an administrative separation board.

**(6) Separation Decision Date / Characterization:** 23 July 2006 / Under Other Than Honorable Conditions

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 11 August 2004 / 6 years

**b. Age at Enlistment / Education / GT Score:** 17 / High School Graduate / 122

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 25B1O D1, Information System Operator – Analyst / 2 years, 1 week

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

**e. Overseas Service / Combat Service:** SWA / Iraq (24 September 2005 – 1 August 2006)

**f. Awards and Decorations:** NDSM, ICM, GWOTSM, ASR, OSR

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** FG Record of Proceedings under Article 15, Uniform Code of Military Justice, 15 June 2006, for wrongfully distribute some marijuana while receiving special pay (between 1 and 30 April 2006). The punishment consisted of a reduction to E-1, forfeiture of \$636 pay per month for two months (one month suspended), and extra duty and restriction for 45 days.

Enlisted Record Brief (ERB), 10 July 2006, reflects the applicant was flagged for Adverse Action (AA) 24 April 2006. The applicant was reduced from E-4 to E-1 effective 12 June 2006.

Orders 226-0609, 14 August 2006, reflect the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 18 August 2006 from the Regular Army.

The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant had not completed the first full term of service. The applicant was discharged under the authority of AR 635-200, paragraph 14-12c, with a narrative reason of Misconduct (Serious Offense). The DD Form 214 was authenticated with the applicant's signature.

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

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

**(1) Applicant provided:** None

**(2) AMHRR Listed:** Report of Mental Status Evaluation, 22 June 2006, reflects the applicant was psychiatrically cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings and met medical retention requirements.

*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; Certificate of Release or Discharge from Active Duty.

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted in support of 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) Paragraph 1-16b states the Army's separation policy is designed to strengthen the concept that military service is a calling different from any civilian occupation. Soldiers who do not conform to required standards of discipline and performance and Soldiers who do not demonstrate potential for further military service should be separated to avoid degradation of morale and substandard mission performance. A substantial investment is made in training persons enlisted or inducted into the Army; therefore, this general guidance will be considered when initiating separation action.

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

(3) 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.

(4) 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.

(5) Paragraph 3-7c states 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.

(6) 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.

(7) Paragraph 14-2c, prescribes Commanders will not take action prescribed in this chapter instead of disciplinary action solely to spare an individual who may have committed serious misconduct from the harsher penalties that may be imposed under the UCMJ.

(8) 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.

(9) 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 waiverable and nonwaiverable 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 waiverable. 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 contends their discharge was inequitable due to untreated service-connected injuries and mental health conditions, including PTSD, memory loss, and chronic pain resulting from a head, neck, and back injury sustained during deployment in 2005. They assert despite experiencing significant symptoms, they did not receive proper medical attention, leading to ongoing health complications, including headaches, anger issues, and destructive behavior. The applicant states they continue to suffer from untreated medical and psychological conditions, including PTSD symptoms, paranoia in public spaces, and sleep disturbances. The applicant contends the discharge was for misconduct due to marijuana use, which they used as a coping mechanism for unaddressed physical, mental, and emotional distress. They argue their chain of command failed to provide counseling, educate them on substance abuse programs, or offer appropriate support. They request an upgrade to their discharge to gain access to VA healthcare and receive necessary treatment for service-connected conditions. The applicant did not submit evidence other than their statement to support the contention the discharge resulted

from any medical condition. The applicant's AMHRR includes no documentation of a PTSD diagnosis. The AMHRR shows the applicant underwent a mental status evaluation (MSE) on 22 June 2006, indicating the applicant was mentally responsible. The MSE does not indicate any diagnosis. The separation authority considered the MSE. Eligibility for veteran's benefits 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.

The applicant contends their discharge was harsher than others in their unit who engaged in similar or more severe misconduct, such as using other controlled substances or theft. 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.

#### 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, the applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: asserted PTSD and TBI.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board found the applicant contends the conditions were present during service.

(3) Does the condition or experience excuse or mitigate the discharge? **No.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions do not mitigate the discharge. The applicant asserts that the misconduct was related to PTSD, Other BH conditions, and TBI (memory loss). However, a review of the available records was void of any BH treatment during or after service, and the applicant provided no documentation supporting the assertion(s). In absent of medical documentation supporting the assertion(s), there is insufficient evidence to support that the misconduct was related to or mitigated by a BH condition. Therefore, there is insufficient evidence to support an upgrade based on medical mitigation.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the available evidence did not support a conclusion that the applicant's self-asserted Post Traumatic Stress Disorder and/or Traumatic Brain Injury outweighed the medically unmitigated separating offense of distribution of an illegal substance.

b. Response to Contention(s):

(1) The applicant contends their discharge was inequitable due to untreated service-connected injuries and mental health conditions, including PTSD, memory loss, and chronic pain resulting from a head, neck, and back injury sustained during deployment in 2005. The Board liberally considered this contention and determined that the available evidence did not

support a conclusion that the applicant's self-asserted Post Traumatic Stress Disorder and Traumatic Brain Injury outweighed the medically unmitigated separating offense of distribution of an illegal substance.

(2) The applicant contends their discharge was harsher than others in their unit who engaged in similar or more severe misconduct, such as using other controlled substances or theft. The Board considered this contention and found no evidence in the record to support the claim that the discharge was inequitable in any way.

c. The Board determined that the discharge is, at this time, proper and equitable, considering the current evidence of record. The applicant has exhausted all available appeal options available with ADRB. However, the applicant may still apply to the Army Board for Correction of Military Records. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable.

d. Rationale for Decision:

(1) The Board voted not to change the applicant's characterization of service because, despite applying liberal consideration to all the evidence before the Board, the applicant's self-asserted Post Traumatic Stress Disorder and Traumatic Brain Injury did not outweigh the applicant's medically unmitigated offense of distribution of an illegal substance due to a lack of medical mitigation. The Board also considered the applicant's contention regarding being treated more harshly than other Soldiers who committed the same misconduct but found that the evidentiary record did not support the claim. The applicant did not present any issues of impropriety for the Board's consideration. The discharge was consistent with the procedural and substantive requirements of the regulation, was within the discretion of the separation authority, and the applicant was provided full administrative due process. Therefore, the awarded Under Other Than Honorable Conditions discharge was proper and equitable as the applicant's conduct fell below that level of satisfactory/meritorious service warranting a General or Honorable discharge characterization.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code under the same pretexts, and the reason the applicant was discharged was both proper and equitable.

(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

AR20210000210

## 10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214 / Separation Order: No
- b. Change Characterization to: No Change
- c. Change Reason / SPD Code to: No Change
- d. Change RE Code to: No Change
- e. Change Authority to: No Change

## Authenticating Official:

4/18/2025

X

Presiding Officer, COL, U.S. ARMY  
Army Discharge Review Board

### 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