

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, serving the country during two deployments to Afghanistan. The applicant was a team leader and received a good conduct medal during their three years of service. The applicant was also Soldier of the month and quarter during their first deployment. During the first deployment, the applicant was exposed to six blast injuries and had two concussions. The squad was shot at almost every day. During the second deployment, the applicant was exposed to two more blast injuries and the squad was mortared at least five times a week. The applicant was hospitalized in June 2011 at the TBI clinic in Fob Salerno for two months during their second deployment. The applicant was diagnosed with TBI and PTSD during their hospitalization. The squad was isolated from everything, and some used occasional marijuana to cope with the stress of having their life threatened daily. The applicant was notified of a drug test in May 2011, and they did not fail the test. Another member of the squad failed the drug test and reported everyone was using drugs. When questioned, the applicant answered honestly and was given an under other than honorable conditions discharge. The discharge was unjust because the applicant passed the drug test and was honest when asked if they ever used drugs. The applicant was injured multiple times while serving their country and diagnosed with PTSD and TBI during their deployment. Both of these conditions require medical and psychological care which the applicant is ineligible to receive from the VA because of the under other than honorable conditions discharge. The applicant risked their life daily to protect and serve the country.

b. Board Type and Decision: In a records review conducted on 13 February 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder, Anxiety Disorder, and Traumatic Brain Injury outweighing the applicant's illegal substance abuse. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed to 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, and the reentry code to RE-3.

*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 (Drug Abuse) / AR 635-200, Chapter 14-12c (2) / JKK / RE-4 / General (Under Honorable Conditions)

b. Date of Discharge: 6 January 2012

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 17 October 2011

(2) Basis for Separation: The applicant was informed of the following reasons: On divers occasions between on or about 15 March 2011 and on or about 17 July 2011, the applicant wrongfully used Hashish, a Schedule I controlled substance, while receiving hazardous duty pay.

(3) Recommended Characterization: Under Other Than Honorable Conditions

(4) Legal Consultation Date: On 20 October 2011 and 4 November 2011, the applicant waived legal counsel.

(5) Administrative Separation Board: On 20 October 2011 and 4 November 2011, the applicant unconditionally waived consideration of the case before an administrative separation board.

(6) Separation Decision Date / Characterization: 8 November 2011, the separation authority considered the separation packet, recommendations by the chain of command, the potential influence of PTSD and mTBI, and the applicant's unconditional board waiver. The unconditional waiver was approved under the provisions of AR 635-200, Chapter 14-12c. / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 19 February 2008 / 5 years

b. Age at Enlistment / Education / GT Score: 18 / GED / 99

c. Highest Grade Achieved / MOS / Total Service: E-4 / 31B10, Military Police / 5 years, 2 months, 15 days

d. Prior Service / Characterizations: USAR, 25 October 2006 – 18 February 2008 / HD

e. Overseas Service / Combat Service: SWA / Afghanistan (6 January 2011 – 17 November 2011; 26 July 2008 – 19 June 2009)

f. Awards and Decorations: ACM-3CS, ARCOM, AAM, NATOMDL, AGCM, NDSM, GWOTSM, NCOPDR, ASR, OSR-2, CAB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: FG Article 15, 12 October 2011, between on or about 15 March 2011 and on or about 17 June 2011, wrongfully used hashish a Schedule I controlled substance, while receiving special pay under 37 U.S.C 310. The punishment consisted of a reduction to E-1; forfeiture of \$733 pay per month for two months; and extra duty and restriction for 45 days (suspended).

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: Report of Medical Examination, 12 August 2011, the examining medical physician noted concussion, 2011 and 2008 from IED in the comments section.

Report of Medical History, 13 August 2011, the examining medical physician noted Concussion from IED in June 2011, Afghan; Concussion in Sept 2008 Afghan; Insomnia; counseling, drug use in the comments section.

The ARBA's medical advisor reviewed DoD and VA medical records and not solely those documents listed in 4j(1) and (2) above.

5. APPLICANT-PROVIDED EVIDENCE: Application for Correction of Military Record; self-authored statement; Certificate of Release or Discharge from Active Duty; four certificates; VA letter.

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 during the first deployment, they were exposed to six blast injuries and had two concussions; during the second deployment they were exposed to more blast injuries and was hospitalized in June 2011 at the TBI clinic for two months. The applicant was diagnosed with TBI and PTSD during their hospitalization. The applicant did not submit any evidence, other than the applicant's statement, to support the contention the discharge resulted from any medical condition. The AMHRR shows Report of Medical Examination, 12 August 2011, the examining medical physician noted concussion, 2011 and 2008 from IED in the comments section. A Report of Medical History, 13 August 2011, the examining medical physician noted Concussion from IED in June 2011, Afghan; Concussion in Sept 2008 Afghan; insomnia; counseling, drug use in the comments section. The Report of Medical Examination and Report of Medical History were considered by the separation authority.

The applicant contends after being injured serving their country and diagnosed with PTSD and TBI during their deployments, they need medical and psychological care which they are ineligible to receive from the VA because of the discharge. Eligibility for veteran's benefits does 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.

The applicant contends good service, including two combat tours; being the team leader; receiving a good conduct medal; and Soldier of the month and quarter during the first deployment. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends the discharge is unjust because they passed the drug test and was honest when asked if they had ever used drugs. The squad was isolated from everything, and some used occasional marijuana to cope with the stress of having their life threatened daily. Another member of the squad failed the drug test and reported everyone was using drugs. 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, applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially-mitigating diagnoses/experiences: Anxiety Disorder NOS, PTSD, TBI.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board found that the applicant was diagnosed in service with Anxiety Disorder NOS and is service connected by the VA for PTSD and TBI. Service connection establishes that the PTSD and TBI also existed during military service.

(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 Anxiety Disorder NOS, PTSD, TBI, and self-medicating with substances, the wrongful use of hashish 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, Anxiety Disorder, and Traumatic Brain Injury outweighed the applicant's illegal substance abuse.

b. Response to Contention(s):

(1) The applicant contends during the first deployment, they were exposed to six blast injuries and had two concussions; during the second deployment they were exposed to more blast injuries and was hospitalized in June 2011 at the TBI clinic for two months. The applicant was diagnosed with TBI and PTSD during their hospitalization. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder, Anxiety Disorder, and Traumatic Brain Injury outweighed the applicant's illegal substance abuse.

(2) The applicant contends after being injured serving their country and diagnosed with PTSD and TBI during their deployments, they need medical and psychological care which they are ineligible to receive from the VA because of the discharge. 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.

(3) The applicant contends good service, including two combat tours; being the team leader; receiving a good conduct medal; and Soldier of the month and quarter during the first deployment. 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, Anxiety Disorder, and Traumatic Brain Injury outweighing the applicant's illegal substance abuse.

(4) The applicant contends the discharge is unjust because they passed the drug test and was honest when asked if they had ever used drugs. The squad was isolated from everything, and some used occasional marijuana to cope with the stress of having their life threatened daily. Another member of the squad failed the drug test and reported everyone was using drugs. 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, Anxiety Disorder, and Traumatic Brain Injury outweighing the applicant's illegal substance abuse.

c. The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder, Anxiety Disorder, and Traumatic Brain Injury outweighing the applicant's illegal substance abuse. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed to 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, and the reentry code to RE-3.

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, Anxiety Disorder, and Traumatic Brain Injury outweighed the applicant's illegal substance abuse. 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.

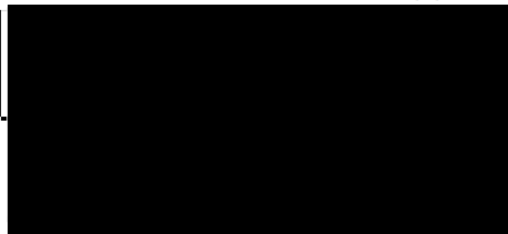
(3) The RE code will change to RE-3.

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: RE-3
- e. Change Authority to: AR 635-200

Authenticating Official:

3/7/2025



ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210000436

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