

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 under other than honorable conditions. The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, having a diagnosis of PTSD; psychotic disorder NOS; and depressive disorder, NOS. The issues the applicant faced during their time in service was due to PTSD.

b. Board Type and Decision: In a records review conducted on 20 February 2025, and by a 3-2 vote, the Board determined the discharge is inequitable based on the applicant's Depression, Anxiety, Psychosis, and Post Traumatic Stress Disorder 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. The Board determined the reentry code is proper and equitable and voted not to change it.

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

(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 / Under Other Than Honorable Conditions

b. Date of Discharge: 17 April 2009

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 16 October 2008

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant tested positive for the use of both marijuana and cocaine.

(3) Recommended Characterization: Under Other Than Honorable Conditions

(4) Legal Consultation Date: 24 October 2008

(5) Administrative Separation Board: On 11 February and 4 March 2009, the administrative separation board convened, and the applicant appeared with counsel. The Board determined the allegation the applicant tested positive for the use of both marijuana and cocaine

was supported by a preponderance of the evidence. The Board recommended the applicant be separated from active service with an under other than honorable conditions discharge.

On 14 April 2009, the separation authority approved the findings and recommendations of the administrative separation board.

(6) Separation Decision Date / Characterization: 14 April 2009 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

- a. Date / Period of Enlistment:** 27 July 2007 / 6 years
- b. Age at Enlistment / Education / GT Score:** 26 / GED / 98
- c. Highest Grade Achieved / MOS / Total Service:** E-4 / 63B10, Wheeled Vehicle Mechanic / 3 years, 11 months, 19 days
- d. Prior Service / Characterizations:** USAR, 29 April 2005 – 13 December 2005 / NA
IADT, 4 May 2005 – 7 October 2005 / UNC
(Concurrent Service)
RA, 14 December 2005 – 26 July 2007 / HD
- e. Overseas Service / Combat Service:** SWA / Iraq (15 January 2007 – 2 April 2008)
- f. Awards and Decorations:** ARCOM, GWOTSM, ICM-CS, ASR, OSR
- g. Performance Ratings:** NA
- h. Disciplinary Action(s) / Evidentiary Record:** Intoxilyzer Alcohol Analysis, 22 December 2006, reflects a result of .101.

CG Article 15, 8 March 2007, on or about 27 December 2006, without authority, absent oneself from the unit and did remain so absent until on or about 29 December 2006; and on or about 22 December 2006, was found drunk while on duty. The punishment consisted of extra duty and restriction for 14 days.

Intoxilyzer Alcohol Analysis, 12 August 2008, reflects a result of .109.

MPR# 02051-2008-MPC093, 12 August 2008, investigation revealed S., reported having observed a white envelope containing a green leafy substance suspected to be marijuana located on the counter top of the applicant's barracks room. The Fort Stewart Police were notified. The suspected marijuana tested positive for THC. The applicant was apprehended, taken to the police station, processed then released to the unit.

Electronic Copy of DD Form 2624, 18 August 2008, reflects the applicant tested positive for COC 3514 (cocaine) and THC 90 (marijuana), during a Probable Cause (PO) urinalysis testing, conducted on 6 August 2008.

FG Article 15, 3 October 2008, on or about 5, 6, and 9 June 2008, without authority, fail to go at the time prescribed to the appointed place of duty; on or about 6 June 2008, having received a lawful order from Sergeants V. and R., to report to the 1SG's office, did willfully disobey the same; on or about 12 August 2008, was disrespectful in language toward Sergeant T. A. S.; on

or about 12 August 2008, assault SGT T. A. S. by striking them in the face with the hand; between on or about 31 July 2008 and 6 August 2008, wrongfully use cocaine; and on or about 12 August 2008, wrongfully communicate a threat to injure SGT T. A. S. by hitting them. The punishment consisted of a reduction to E-1; forfeiture of \$974 pay per month for two months; and restriction for 45 days.

Superior Court of Chatham County, Georgia Court Document, 8 November 2008, reflects the applicant pled guilty to Aggravated Assault and Disorderly Conduct.

Report of Proceedings by Investigating Officer/Board of Officers, 11 February and 4 March 2009, reflects the Board found: The allegation the applicant tested positive for the use of both marijuana and cocaine was supported by a preponderance of the evidence. The Board recommended the applicant be separated from active service with an under other than honorable conditions discharge.

Two Developmental Counseling Forms, for being AWOL and being drunk on duty.

i. Lost Time / Mode of Return: AWOL for 2 days, 27 December 2006 to 29 December 2006. This period is not annotated on the DD Form 214 block 29.

j. Behavioral Health Condition(s):

(1) Applicant provided: Virginia Beach Department of Human Services Diagnosis Review, 19 and 27 February 2013, reflects the applicant was diagnosed with Axis I: 309.81 Posttraumatic Stress Disorder; 298.9 Psychotic Disorder, NOS; 311 Depressive Disorder NOS; 305.00 Alcohol Abuse; and 305.60 Cocaine Abuse.

(2) AMHRR Listed: Report of Medical Examination, 28 August 2008, the examining medical physician noted migraine headaches; depression; anxiety; sleep disturbance; and memory loss in the comments section.

Report of Medical History, 28 August 2008, the examining medical physician noted the applicant reports they began to have problems with anxiety attacks, memory loss, problems falling asleep and then waking up and being able to fall back asleep, and depression all began in April 2008 when they returned from Iraq. The applicant was hospitalized for psychosis while in Alabama. The applicant was on medication and was being followed by behavioral health. The applicant denied any suicidal or homicidal ideation. The applicant reports having flashbacks in the comments section.

Report of Mental Status Evaluation (MSE), 10 September 2008, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant was diagnosed with Axis I: Adjustment Disorder, Sedative dependence, Substance Abuse and Axis II: Cluster B Traits.

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 the Review of Discharge; Congressional letter; Congressional Consent Form; two Virginia Beach Department of Human Services Psychiatric Evaluation Diagnosis Reviews; 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) 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.

(5) 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.

(6) 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.

(7) 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 having a diagnosis of PTSD; psychotic disorder NOS; and depressive disorder, NOS. The issues the applicant faced during their time in service was due to PTSD. The applicant provided a Virginia Beach Department of Human Services Diagnosis Review, 19 and 27 February 2013, reflecting the applicant was diagnosed with Axis I: 309.81 Posttraumatic Stress Disorder; 298.9 Psychotic Disorder, NOS; 311 Depressive Disorder NOS; 305.00 Alcohol Abuse; and 305.60 Cocaine Abuse. The AMHRR shows the applicant underwent a MSE on 10 September 2008, which reflects the applicant was cleared for any administrative actions deemed appropriate by the command; could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; met medical retention requirements; and was diagnosed with Axis I: Adjustment Disorder, Sedative dependence, Substance Abuse and Axis II: Cluster B Traits. A Report of Medical Examination, 28 August 2008, the examining medical physician noted migraine headaches; depression; anxiety; sleep disturbance; and memory loss in the comments section. A Report of Medical History, 28 August 2008, reflects the applicant reported they began to have problems with anxiety attacks, memory loss, problems falling asleep and then waking up and being able to fall back asleep, and depression beginning in April 2008 when they returned from Iraq. The applicant was hospitalized for psychosis while in Alabama. The applicant was on medication and was being followed by behavioral health. The applicant denied any suicidal or homicidal ideation. The applicant reported having flashbacks in the comments section. The MSE, Report of medical Examination and Report of Medical History were considered by the separation authority.

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, Depression, Anxiety, Psychosis, 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, Depression, Anxiety, and Psychosis and has been diagnosed by the VA with combat-related 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 Depression, Anxiety, Psychosis, PTSD, and self-medicating with substances, testing positive for marijuana and cocaine 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 Depression, Anxiety, Psychosis, and Post Traumatic Stress Disorder outweighed the applicant's illegal substance abuse.

b. Response to Contention(s): The applicant contends having a diagnosis of PTSD; psychotic disorder NOS; and depressive disorder. The issues the applicant faced during their time in service was due to PTSD. The Board liberally considered this contention and determined that the applicant's Depression, Anxiety, Psychosis, and Post Traumatic Stress Disorder outweighed the applicant's illegal substance abuse. Therefore, a discharge upgrade is warranted.

c. The Board determined the discharge is inequitable based on the applicant's Depression, Anxiety, Psychosis, and Post Traumatic Stress Disorder 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. 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 Depression, Anxiety, Psychosis, and Post Traumatic Stress Disorder 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 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

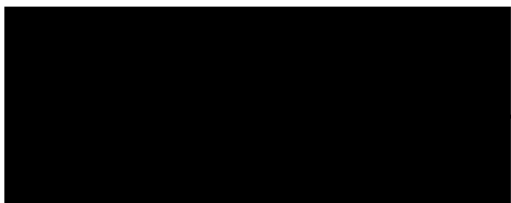
AR20210000470

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:

2/28/2025



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