

**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 honorable.

The applicant seeks relief contending, in effect, having Post-Traumatic Stress Disorder (PTSD) and believes they had it since 2007 or earlier but did not know and never received help. The applicant also contends they served three honorable terms and made a difference in their country with a deployment and dedicated ten and a half years of service.

**b. Board Type and Decision:** In a records review conducted on 16 January 2025, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's length and quality of service, to include combat service, and partial medical mitigation of the applicant's misconduct combining to outweigh the discharge. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General and changed the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions). The Board determined the RE code was proper and equitable and voted not to change it.

*Please see Section 9 of this document for more detail regarding the Board's decision.*

*(Board member names available upon request)*

**3. DISCHARGE DETAILS:**

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

**b. Date of Discharge:** 3 April 2013**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 11 December 2012

**(2) Basis for Separation:** The applicant was informed of the following reasons: between on or about 8 July and 7 August 2012, wrongfully used marijuana.

Between on or about 6 May and on or about 5 June 2012, wrongfully used marijuana.

On or about 3 June 2012, assaulted their significant other and later the same night, violated a condition of their release by returning to the same apartment they shared with them.

This separation is based in part on conduct from a prior enlistment. Specifically, between on or about 1 March 2008 and on or about 1 April 2008, wrongfully used marijuana.

On or about 20 July 2003, violated a lawful general regulation by allowing an invalid license plate to be displayed on a Privately Owned Vehicle.

On or about 20 July 2003, violated a lawful general regulation by wrongfully operating a Privately Owned Vehicle without possessing a USAREUR POV operator license.

On or about 20 July 2003, violated a lawful general regulation by wrongfully operating a Privately Owned Vehicle not registered with the registrar or other civilian or military authority in USAREUR.

On or about 20 July 2003, violated a lawful general regulation by operating a Privately Owned Vehicle not covered by liability insurance in the minimum amount required by German Law.

On or about 20 July 2003, operated a motor vehicle while under the influence of alcohol and caused injury to another person, operated a vehicle in a reckless manner and wrongfully left the scene of an accident.

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

**(4) Legal Consultation Date:** 17 December 2012

**(5) Administrative Separation Board:** On 2 February 2013, the applicant was notified to appear before an administrative separation board and advised of rights.

On 28 February 2013, the administrative separation board convened, and the applicant appeared with counsel. The Board determined all twelve of the reasons listed in the notification memorandum were supported by a preponderance of the evidence. The board recommended the applicant's discharge with characterization of service of under other than honorable conditions.

On 14 March 2013, the separation authority approved the findings and recommendations of the administrative separation board.

**(6) Separation Decision Date / Characterization:** 14 March 2013 / Under Other Than Honorable Conditions

#### **4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 5 August 2005 / 6 years.

**b. Age at Enlistment / Education / GT Score:** 22 / High School Graduate / 89

**c. Highest Grade Achieved / MOS / Total Service:** E-5 / 88H20, Cargo Specialist / 10 years, 2 months, 21 days

**d. Prior Service / Characterizations:** USAR, 28 October 2002 – 4 August 2005 / HD

**e. Overseas Service / Combat Service:** Germany, Korea, SWA / Afghanistan (12 July 2005 – 11 July 2006)

**f. Awards and Decorations:** ARCOM, AAM-2, AGCM-3, NDSM, KSM, ACM-2CS, GWOTSM, ASR, OSR

**g. Performance Ratings:** 1 April 2006 – 31 January 2007 / Fully Capable  
1 February 2007 – 31 January 2008 / Fully Capable

**h. Disciplinary Action(s) / Evidentiary Record:** Electronic Copy of DD Form 2624, 10 April 2008, reflects the applicant tested positive for THC 45 (marijuana), during an Inspection Random (IR) urinalysis testing, conducted on 1 April 2008.

Army Substance Abuse Program (ASAP) Enrollment form, 15 April 2008, reflects the applicant command-referred in the ASAP.

FG Article 15, 11 June 2008, for wrongfully using marijuana (on or about 1 March 2008 and 1 April 2008). The punishment consisted of a reduction to E-4; forfeiture of \$1023 pay per month for two months (suspended); and extra duty and restriction for 45 days.

Memorandum Request for Urinalysis Testing, 31 May 2012, reflects the Company Commander request for urinalysis testing due to probable cause.

Incident Report, 3 June 2012, reflects the applicant was arrested for domestic violence with simple assault.

Incident Report, 3 June 2012, reflects an officer response to a violation of condition of release (COR) by the applicant. The applicant returned to their apartment to get clothes without their chain of command which resulted in the applicant being arrested and jailed for violation of COR.

Incident Report, 14 June 2012, reflects an officer response to a violation of condition of release (COR). The applicant received a warrant of arrest for violation of COR by having a third party contact the victim.

Electronic Copy of DD Form 2624, 25 June 2012, reflects the applicant tested positive for THC 29 (marijuana), during a Probable Cause (PO) urinalysis testing, conducted on 5 June 2012.

FG Article 15, 9 July 2012, for wrongfully using marijuana (between 6 May and 5 June 2012). The punishment consisted of a reduction to E-3; forfeiture of \$990 pay per month for two months (suspended); and extra duty for 30 days.

Electronic Copy of DD Form 2624, 21 August 2012, reflects the applicant tested positive for THC 40 (marijuana), during an Inspection Other (IO) urinalysis testing, conducted on 7 August 2012.

FG Article 15, 26 October 2012, for wrongfully using marijuana (on or about 8 July 2012 and 7 August 2012). The punishment consisted of a reduction to E-1; forfeiture of \$745 of pay (suspended); and extra duty for 45 days.

Two Personnel Action forms, reflect the applicant's duty status changed as follows:

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 9 January 2013  
From AWOL to Present for Duty (PDY), effective 10 January 2013

The applicant's Enlisted Record Brief (ERB), 22 March 2013, reflects the applicant was demoted to E-4 effective 1 June 2010.

Four Developmental Counseling Forms, for enrollment into ASAP, wrongful use of controlled substances, violation of no contact order, and failure to contact command after arrest for domestic dispute.

i. **Lost Time / Mode of Return:** AWOL for one day, 9 to 10 January 2013 / NIF / This period is not annotated on the applicant's DD Form 214 block 29.

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

(1) **Applicant provided:** Memorandum Behavioral Health Summary, 29 October 2012, reflects Post Traumatic Stress Disorder, as evidence by continued symptoms following one deployment as an 88H (cargo specialist). The applicant was competent to manage their financial affairs and to participate in disability processing.

(2) **AMHRR Listed:** Memorandum, Area of disagreement Regarding IPEB Finding dated 5 and 22 February 2013, the applicant's MED counsel did not agree with the IPEB and requested a formal PEB hearing.

Informal Physical Evaluation Board Proceedings (PEB), 8 February 2013, the PEB found the condition of PTSD as not unfitting. There was no objective evidence in the case file indicating the condition negatively impacted the applicant's ability to perform their job.

Third party letter from the applicant's spouse, 26 February 2013, testify how the applicant changed after their deployment to Afghanistan in 2006. The spouse states the applicant seemed very depressed and detached.

Report of Mental Status Evaluation, 11 July 2012, 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 had been screened for PTSD and mTBI. The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The command was advised to consider the influence of these conditions.

Chronological Record of Medical Care, 18 October 2012, reflects the applicant met DSM-IV-TR diagnostic criteria for PTSD. In addition to the PTSD symptoms, they also appeared to be suffering from significant depression.

Medical Evaluation Board Narrative Summary, 28 December 2012, reflects the applicant was not capable of returning to duty within one year due to the condition of PTSD.

*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; Memorandum For Record: Medical Evaluation Board (MEB); 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 14-12c (2) 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 (2), misconduct (drug offense).

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 suffering from post-traumatic stress disorder (PTSD) and believes they had it since 2007 or earlier but did not know and never received help. The applicant submitted a Memorandum for Record, MEB Behavioral Health Summary, to support the contention. The applicant's AMHRR contains documentation which supports an in-service diagnosis. The record shows the applicant underwent a Mental Status Evaluation (MSE) on 11 July 2012, which indicates the applicant was mentally responsible and was able to recognize right from wrong. The MSE was considered by the separation authority. The AMHRR shows applicant was diagnosed with PTSD on 18 October 2012. The applicant received in patient care where applicant met DSM-IV-TR diagnostic criteria for PTSD. The MSE was considered by the separation authority.

The applicant contends good service with three honorable terms and made a difference in their country including a combat tour and dedicated ten and a half years of service. The applicant, The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28. The AMHRR shows the applicant served one honorable term.

#### **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, Depression, Dysthymic Disorder, Anxiety Disorder NOS.

**(2)** Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was diagnosed in service with PTSD, Depression, Dysthymic Disorder, and Anxiety Disorder NOS.

**(3)** Does the condition or experience actually excuse or mitigate the discharge? **Partially.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions partially mitigate the discharge. Given the nexus between PTSD, Depression, Dysthymic Disorder, Anxiety Disorder NOS, and self-medicating with substances, the wrongful use of marijuana is mitigated. None of these BH conditions have a nexus with or provide mitigation for assaulting one's significant other and then violating a condition of the release.

**(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 Post Traumatic

Stress Disorder, Depression, Dysthymic Disorder, and Anxiety Disorder outweighed the applicant's medically unmitigated offenses of domestic violence and violating a condition of the release.

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

(1) The applicant contends suffering from post-traumatic stress disorder (PTSD) and believes they had it since 2007 or earlier but did not know and never received help. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Post Traumatic Stress Disorder, Depression, Dysthymic Disorder, and Anxiety Disorder outweighed the applicant's medically unmitigated offenses domestic violence and violating a condition of the release.

(2) The applicant contends good service with three honorable terms and made a difference in their country including a combat tour and dedicated ten and a half years of service. The Board considered the applicant's ten years of service, including a combat tour in Afghanistan and numerous awards received. The Board found that the applicant's record, in combination with the medical mitigation of the applicant's illegal substance abuse, warranted an upgrade to General characterization of service. The Board only considered the applicant's misconduct during the period of service at issue when making its characterization determination.

c. The Board determined that the characterization of service was inequitable based on the applicant's length and quality of service, to include combat service, and partial medical mitigation of the applicant's misconduct combining to outweigh the discharge. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to General and changed the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions). The Board determined the RE code was proper and equitable and voted not to change it. The applicant has exhausted their 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 to change the applicant's characterization of service to General because the applicant's record of service and behavioral health conditions outweighed the applicant's illegal substance abuse offense. The applicant's General discharge is proper and equitable as the applicant's medically unmitigated offenses of domestic violence and violating a condition of release fell below that level of meritorious service warranted for an upgrade to Honorable discharge.

(2) The Board voted to change the reason for separation to Misconduct (Minor Infractions) based on medical mitigation of the applicant's illegal substance abuse offense. Given that there was not mitigation for the applicant's offenses of domestic violence and violating a condition of release, the Misconduct (Minor Infractions) narrative reason is proper and equitable. 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

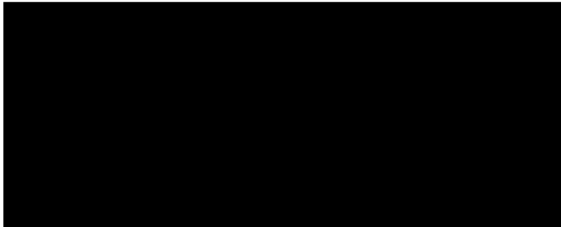
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## 10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: Yes
- b. Change Characterization to: General
- 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:

3/6/2025



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