

1. Applicant's Name: [REDACTED]**a. Application Date:** 26 April 2021**b. Date Received:** 25 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, was not afforded the opportunity to seek help, or referred to ASAP for their substance abuse. There was an injustice by the command when the applicant asked the company commander and 1SG for help. Instead of giving the applicant the help they requested, the applicant was sent to NTC and told NTC would be their rehab. The applicant had just returned the year before from Iraq and was having issues coping with their experiences in combat. The applicant was denied the opportunity to receive treatment. Since 2006, the applicant has sought help with the Department of Veterans Affairs (DVA) for assistance with their substance abuse. The DVA diagnosed the applicant with PTSD and stated the substance abuse was something the applicant did to self-medicate. The applicant receives treatment in Albuquerque, New Mexico and has been successfully clean and volunteers at the location. The applicant is also a DAT Captain for the Red Cross at Las Cruces, New Mexico. The applicant believes if the chain of command had listened and cared for them, they would not have experienced all the prejudice they experienced. The discharge was inequitable because it was based on one isolated incident in 10 years and 7 months of service with no other adverse actions.

b. Board Type and Decision: In a records review conducted on 21 January 2025, and by a 5-0 vote, the Board determined that the characterization of service was inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason/SPD code and RE code were proper and equitable and voted not to change them.

*Please see Section 9 of this document for more details regarding the Board's decision.
Board member names available upon request.*

3. DISCHARGE DETAILS:

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

b. Date of Discharge: 23 October 2006**c. Separation Facts:**

(1) Date of Notification of Intent to Separate: 5 October 2006

(2) Basis for Separation: Under the provisions of AR 635-200, Chapter 14-12c, the applicant was informed of the following reasons: the applicant wrongfully used cocaine.

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

(4) Legal Consultation Date: On 5 October 2006, the applicant waived legal counsel.

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

(6) Separation Decision Date / Characterization: undated / General (Under Honorable Conditions) / The Separation Authority directed the discharge under the provisions of AR 635-200, Chapter 14-12c, Misconduct (Serious offense).

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 22 February 2005 / 3 years

b. Age at Enlistment / Education / GT Score: 34 / High School Graduate / 96

c. Highest Grade Achieved / MOS / Total Service: E-5 / 92G20, Food Service Specialist / 10 years, 7 months, 3 days

d. Prior Service / Characterizations: RA, 21 March 1996 – 16 September 1998 / HD
RA, 17 September 1998 – 28 September 2000 / HD
RA, 29 September 2000 – 21 February 2005 / HD

e. Overseas Service / Combat Service: Hawaii, SWA / Kuwait & Iraq (12 January 2004 – 12 January 2005)

f. Awards and Decorations: ARCOM-3, AAM-4, AGCM, NDSM, GWOTSM, ICM, NCOPDR, ASR, OSR-2

g. Performance Ratings: March 2005 – July 2005 / Fully Capable

h. Disciplinary Action(s) / Evidentiary Record: FG Article 15, 19 June 2006, between on or about 23 and 30 March 2006, for wrongfully using cocaine. The punishment consisted of a reduction to E-4; forfeiture of \$1009 pay per month for two months(suspended); restriction for 45 days (suspended); and extra duty for 45 days.

Electronic Copy of DD Form 2624, 22 June 2006, reflects the applicant tested positive for COC 651 (cocaine), during an Inspection Unit (IU) urinalysis testing, conducted on 13 June 2006.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Discharge Summary, 4 September 2009, reflects the applicant was in the Non DSHS Program, Intensive Residential Program from 12 August 2009 – 4 September 2009.

SUD Weekly Group Schedule, 30 November 2009, reflects the applicant's scheduled appointments.

(2) AMHRR Listed: Report of Mental Status Evaluation (MSE), 27 June 2006, 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: Occupational Problems.

Report of Medical History, 28 June 2006, the examining medical physician noted in the comments section: depression x 3 years; had seen counselor; was still depressed; the applicant used illegal drugs and was going to check into rehab; and was being chaptered for failing a UA.

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; SUD Weekly Group Schedule; Discharge Summary; Department of Veterans Affairs Request for Drug/Alcohol Residential Services; Certificate of Release or Discharge from Active Duty.

6. POST SERVICE ACCOMPLISHMENTS: The applicant receives treatment in Albuquerque, New Mexico and has been successfully clean and volunteers at the location. The applicant is also a DAT Captain for the Red Cross.

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 3-5c, provides the reasons for separation, including the specific circumstances that form the basis for the separation, will be considered on the issue of characterization. As a general matter, characterization will be based upon a pattern of behavior other than an isolated incident. There are circumstances, however, in which the conduct or performance of duty reflected by a single incident provides the basis for characterization.

(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) 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 good service, including a combat tour. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends they were not afforded the opportunity to seek help and was not referred to ASAP for their substance abuse. When the applicant asked the chain of command for help, the applicant was sent to NTC and was told NTC would be their rehab. Army Regulation 600-85, paragraph 7-3 entitled voluntary (self) identification and referral, states voluntary (self) ID is the most desirable method of identifying substance use disorder. The individual whose performance, social conduct, interpersonal relations, or health becomes impaired because of these problems has the personal obligation to seek help. Soldiers seeking self-referral for problematic substance use may access services through BH services for a SUD evaluation. The Limited Use Policy exists to encourage Soldiers to proactively seek help. The AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends being diagnosed with PTSD by the VA and the substance abuse was something the applicant used to self-medicate. The applicant provided a Discharge Summary, 4 September 2009, which reflects the applicant was in the Non DSHS Program, Intensive Residential Program from 12 August to 4 September 2009. A SUD Weekly Group Schedule, 30 November 2009, reflects the applicant's scheduled appointments. The AMHRR shows the applicant underwent a mental status evaluation (MSE) on 27 June 2006, which 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: Occupational Problems. A Report of Medical History, 28 June 2006, reflects the examining medical physician noted in the comments section: depression x 3 years; had seen counselor; was still depressed; uses illegal drugs and was going to check into rehab; and was being chaptered for failing a UA. The MSE and Report of Medical History were considered by the separation authority.

The applicant contends the event which led to the discharge from the Army was an isolated incident. Army Regulation 635-200, paragraph 3-5, in pertinent part, stipulates there are circumstances in which the conduct or performance of duty reflected by a single incident provides the basis for a characterization.

The applicant receives treatment in Albuquerque, New Mexico and has been successfully clean and volunteers at the location. The applicant is also a DAT Captain for the Red Cross. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

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 and MDD (recurrent).

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

(3) Does the condition or experience excuse or mitigate the discharge? **Partially.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions mitigate the discharge. Given the nexus between PTSD and the use of substances to self-medicate, the applicant's wrongful use of cocaine is mitigated. However, the applicant's disobeying a lawful order and breaking restriction are not mitigated as both offenses appear to have been an informed decision with willful intent.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's Post Traumatic Stress Disorder outweighed the illegal substance abuse.

b. Response to Contention(s):

(1) The applicant contends being diagnosed with PTSD by the VA and the substance abuse was something the applicant used to self-medicate. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder outweighed the applicant's illegal substance abuse.

(2) The applicant contends they were not afforded the opportunity to seek help and was not referred to ASAP for their substance abuse. When the applicant asked the chain of command for help, the applicant was sent to NTC and told NTC would be their rehab. The Board considered this contention during proceedings, but ultimately did not address the contention in detail due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse offense.

(3) The applicant contends good service, including a combat tour. The Board considered this contention during proceedings, but ultimately did not address the contention in detail due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse offense.

(4) The applicant contends the event which led to the discharge from the Army was an isolated incident. The Board considered this contention during proceedings but ultimately did not address the contention in detail due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse offense.

(5) The applicant receives treatment in Albuquerque, New Mexico and has been successfully clean and volunteers at the location. The applicant is also a DAT Captain for the Red Cross. The Board considered this contention during proceedings, but ultimately did not address the contention in detail due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse offense.

c. The Board determined that the characterization of service was inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse. Accordingly, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable. The Board determined the narrative reason/SPD code and RE code were proper and equitable and voted not to change them.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Post Traumatic Stress Disorder outweighed the applicant's illegal substance abuse. The remaining unmitigated misconduct (one count of disobeying an order and breaking restriction) did not necessarily rise to a level below honorable service when considering the totality of the record. Thus, the prior characterization is no longer appropriate.

(2) The Board voted not to change the applicant's reason for discharge or accompanying SPD code upon finding them proper and equitable.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**AR20210000553**

(3) The RE code will not change due to the service connected BH diagnoses. The current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: Yes
- b. Change Characterization to: Honorable
- c. Change Reason / SPD Code to: No Change
- d. Change RE Code to: No Change
- e. Change Authority to: AR 635-200

Authenticating Official:

2/27/2025



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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