

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, the discharge was inequitable because it was based strictly on substance abuse. The applicant self-medicated because of the misdiagnosis and lack of any treatment for their post-traumatic stress disorder (PTSD). This is a proven symptom of PTSD. Within weeks after the applicant's discharge, they began treatment for PTSD. The applicant was treated by a therapist monthly and took several medications to help the applicant through their day. The applicant battles the urge for alcohol daily, especially at the peak of their depression and anxiety. Five months after the discharge, the applicant was found 100 percent disabled for PTSD. The applicant has received several awards for their service but was discharged one day before completing their full term of service. The applicant is attending college as they continue their therapy. The GI Bill would help the applicant with the burden of college expenses.

b. Board Type and Decision: In a records review conducted on 21 January 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the separating AWOL and illegal substance abuse offenses. 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. Accordingly, the narrative reason for separation changed 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 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, Paragraph 14-12c (2) / JKK / RE-4 / General (Under Honorable Conditions)

b. Date of Discharge: 7 March 2013**c. Separation Facts:**

(1) Date of Notification of Intent to Separate: 9 January 2013

(2) Basis for Separation: The applicant was informed of the following reasons:

Between 1 May and 15 June 2012, the applicant wrongfully possessed methylenedioxypyrovalerone (bath salts), a Schedule I controlled substance;

On 19 October 2012, the applicant without authority, was absent from the unit to wit: D Company, 2nd Battalion, 87th Infantry Regiment, 3d Brigade Combat Team;

On 26 September 2012, the applicant violated a lawful general order, by wrongfully possessing Spice, a chemical augmented herbal substance; and

On 25 September 2012, the applicant violated a lawful general order, by wrongfully using Spice, a chemical augmented herbal substance.

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

(4) Legal Consultation Date: On 10 January 2013, the applicant waived legal counsel.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 15 February 2013 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 3 November 2009 / 3 years, 18 weeks

b. Age at Enlistment / Education / GT Score: 18 / HS Graduate / 101

c. Highest Grade Achieved / MOS / Total Service: E-4 / 11B10, Infantryman / 3 years, 3 months, 25 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Afghanistan (15 March 2011 – 14 March 2012)

f. Awards and Decorations: ARCOM, NDSM, ACM-2CS, GWOTSM, ASR, OSR, NATOMDL, CIB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Criminal Investigation Division (CID) Agent's Investigation Report, 1 October 2012, reflects the applicant consented to a search of their room and the CID agent found drug paraphernalia in the applicant's desk. The applicant was escorted to the CID office, waived their rights, and provided a sworn statement confessing to possessing two containers of glass cleaner, and consuming the cleaner as recent as June 2012. The applicant confessed the drug paraphernalia found in their room was used to consume synthetic cannabinoids.

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

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 19 October 2012;
 From AWOL to Confined by Confined by Military Authorities (CMA), effective 29 October 2012; and
 From CMA to PDY, effective 15 November 2012.

Field Grade Article 15, 29 November 2012, for:

Violating a lawful general order by wrongfully possessing spice (26 September 2012);

Violating a lawful general order by wrongfully using spice (25 September 2012);

Wrongfully possessing methylenedioxypyrovalerone (bath salts) a Schedule I controlled substance (1 May 2012); and

Without authority, being absent from their unit (from 19 to 29 October 2012).

The punishment consisted of a reduction to E-1; forfeiture of \$682 pay; and extra duty and restriction for 45 days.

The applicant's Enlisted Record Brief (ERB), 4 January 2013, reflects the applicant was flagged for Adverse Action (AA), effective 28 September 2012 and Involuntary Separation or Discharge (Field Initiated) (BA), effective 3 January 2013; and was ineligible for reenlistment because of Adverse Action Flag (Flag Codes A, H, L, M, U, V, and X) (9B). The Assignment Eligibility Availability code reflects the applicant was temporarily ineligible for reassignments because of medical, convalescence, confinement due to trial by court martial, enrollment in Track III ASAP, or local bar to reenlistment. The applicant was reduced from E-4 to E-1 effective 4 December 2012. The applicant's expiration term of service (ETS) date was 8 March 2013.

Numerous Developmental Counseling Forms, for reception and integration (initial); possessing drug paraphernalia on multiple occasions; having attitude issues; multiple positive monthly counseling; and outlining personal conduct during block leave.

i. Lost Time / Mode of Return: 10 days (AWOL, 19 October 2012 – 28 October 2012) / Confined by Military Authorities / CMA for 18 days, 29 October 2012 to 15 November 2012. This period is not annotated on the applicant's DD Form 214, block 29.

j. Behavioral Health Condition(s):

(1) Applicant provided: Department of Veterans Affairs (VA) Rating Decision, 13 August 2013, reflects the applicant was rated 100 percent disabled for PTSD and 10 percent for tinnitus.

(2) AMHRR Listed: Report of Mental Status Evaluation, 28 November 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 mild traumatic brain injury (mTBI). The applicant screened positive for PTSD, but the results required further evaluation. The applicant was referred to the Army Substance Abuse Program for evaluation of other substance abuse (spice) and was pending intake review. The applicant was diagnosed with adjustment disorder with mixed anxiety and depressed mood; and other substance abuse (spice).

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: Certificate of Release or Discharge from Active Duty; Application for the Review of Discharge; separation documents; and VA Rating Decision.

6. POST SERVICE ACCOMPLISHMENTS: The applicant is attending college and continuing their therapy for PTSD.

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

(7) 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.

(8) 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 undiagnosed PTSD and other mental health issues affected behavior, which led to the discharge, and the VA rated the applicant 100 percent disabled for the condition. The applicant submitted medical documents reflecting the VA rated the applicant 100 percent disability for PTSD and 10 percent for tinnitus. The applicant's AMHRR reflects the applicant underwent a mental status evaluation (MSE) on 28 November 2012, which indicates the applicant was mentally responsible and was able to recognize right from wrong. The applicant had been screened for PTSD and mTBI. The applicant screened positive for PTSD but required further evaluation. The applicant as diagnosed with adjustment disorder with mixed anxiety and depressed mood; and other substance abuse (Spice). The MSE was considered by the separation authority.

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 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 contends being discharged one day before completing their full term of service. The applicant's AMHRR reflects the applicant was involuntarily discharged on 7 March 2013, and their ETS date was 8 March 2013. The AMHRR does not include any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends attending college and continuing their therapy for PTSD. 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.

The applicant contends an upgrade would allow educational benefits through the GI Bill. Eligibility for veteran's benefits to include educational benefits under the Post-9/11 or Montgomery GI Bill 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.

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's Medical Advisor, a voting member, 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, MDD, and Adjustment Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 70 service connected for PTSD.

(3) Does the condition or experience 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 PTSD and the use of substances to self-medicate and PTSD and avoidant behavior, the applicant's misconduct characterized by wrongful possession of bath salts and spice, wrongful use of spice, and being AWOL 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 outweighed the separating AWOL and illegal substance abuse offenses.

b. Response to Contention(s):

(1) The applicant contends undiagnosed PTSD and other mental health issues affected behavior, which led to the discharge, and the VA rated the applicant 100 percent disabled for the condition. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder outweighed the applicant's AWOL and illegal substance abuse offenses.

(2) 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 AWOL and illegal substance abuse offenses.

(3) 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 AWOL and illegal substance abuse offenses.

(4) The applicant contends being discharged one day before completing their full term of service. 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 AWOL and illegal substance abuse offenses.

(5) The applicant contends attending college and continuing their therapy for PTSD. 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 AWOL and illegal substance abuse offenses.

(6) The applicant contends an upgrade would allow educational benefits through the GI Bill. 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.

c. The Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's AWOL and illegal substance abuse offenses. 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. Accordingly, the narrative reason for separation changed 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 Post Traumatic Stress Disorder outweighed the applicant's misconduct of illegal substance abuse and AWOL. 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.

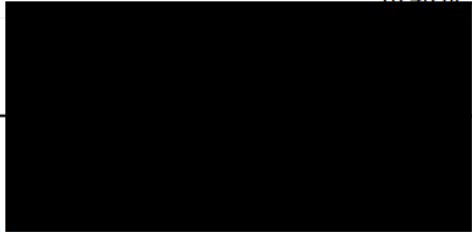
(3) The RE code will not change given the service connected BH conditions. The current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

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

Authenticating Official:

1/24/2025



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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