

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 honorable. The applicant requests a narrative reason change.

The applicant seeks relief contending, in effect, suffering from problems connected to both traumatic brain injury (TBI) and post-traumatic stress disorder (PTSD), spending three weeks in an inpatient program. The applicant's physical and mental health conditions had prompted their doctor to recommend a medical discharge. Because of the applicant's AWOL status, the applicant's medical condition was made worse by their chain of command. Due to the applicant's assistance with the CID's investigation, the AWOL was incorrect. The applicant had a second mental breakdown because of the never-ending stream of problems. Kuwait hosted the first one. Due to IED injuries, the applicant was awarded a Purple Heart. The applicant's doctor recommended against doing a urine test while the applicant was a patient, but the applicant's unit nevertheless tried to have the applicant take one. After receiving an Article 15 for drug usage, the applicant was discharged. The applicant's otherwise excellent military experience was marred by the unit. The applicant desires to use their entire GI Bill benefit, as they are only presently able to use 60 percent. The VA also granted the applicant a 90 percent disability rating. The applicant rescued the life of a parent who lost a child in a drunk driver's car accident. Additionally, the applicant assists veterans in their transition from the armed forces.

b. Board Type and Decision: In a records review conducted on 21 November 2024, and by a 5-0 vote, the Board, (based on the applicant's Post Traumatic Stress Disorder, Traumatic Brain Injury, and Anxiety Disorder outweighing the applicant's illegal substance abuse and AWOL offenses), determined the narrative reason for the applicant's separation is inequitable. Therefore, the Board directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), the separation code to JKN, and the reentry code to RE-3. The Board determined the characterization of service 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 / Honorable

b. Date of Discharge: 29 April 2011**c. Separation Facts:**

(1) Date of Notification of Intent to Separate: 28 March 2011

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant wrongfully used marijuana between on or about 16 January and on or about 16 February 2011. The applicant was Absent Without Leave (AWOL) from 10 to 14 July 2010, and the applicant was AWOL from 28 January to 16 February 2011.

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

(4) Legal Consultation Date: 28 March 2011

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 8 April 2011 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 10 February 2008 / 6 years

b. Age at Enlistment / Education / GT Score: 22 / High School Graduate / 98

c. Highest Grade Achieved / MOS / Total Service: E-4 / 11B10, 2C Infantryman / 4 years, 7 months, 16 days

d. Prior Service / Characterizations: RA, 22 August 2006 – 9 February 2008 / HD

e. Overseas Service / Combat Service: SWA / Iraq (3 April 2007 – 12 July 2008; 13 September 2009 – 17 August 2010)

f. Awards and Decorations: ICM-2CS, ARCOM-2, PH, AAM, AGCM, NDSM, GWOTSM, ASR, OSR-2, CIB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: DD Form 2624, undated, reflects the applicant tested positive for THC 67 (marijuana), during an Inspection Other (IO) urinalysis testing, conducted on 16 February 2011.

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

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 10 July 2010;
From AWOL to PDY, effective 14 July 2010;
From PDY to AWOL, effective 28 January 2011; and
From AWOL to PDY, effective 16 February 2011.

Developmental Counseling Form, for violation of Article 92.

i. Lost Time / Mode of Return: 18 days:

AWOL, 10 July 2010 – 13 July 2010 / Returned to unit
AWOL, 28 January 2011 – 15 February 2011 / Returned to unit

j. Behavioral Health Condition(s):

(1) Applicant provided: Mental Status Evaluation, 12 January 2011, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant was mentally responsible with a clear-thinking process and had the mental capacity to understand and participate in the proceedings.

Report of Medical Examination, 23 March 2011, the examining medical physician noted the applicant's medical conditions in the comments section. The applicant was attending Behavioral Health for counseling.

(2) AMHRR Listed: MSE and Report of Medical Examination as described in previous paragraph 4j(1).

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 file.

6. POST SERVICE ACCOMPLISHMENTS: The applicant rescued the life of a parent who lost a child in a drunk driver's car accident. Additionally, the applicant assists veterans in their transition from the armed forces.

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) 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.

(4) 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.

(5) Paragraph 14-3 prescribes a discharge under other than honorable conditions is normally appropriate for a Soldier discharged under this chapter. However, the separation authority may direct a general discharge if such is merited by the Soldier's overall record.

(6) Paragraph 14-12c(2) terms abuse of illegal drugs as serious misconduct. It continues; however, by recognizing relevant facts may mitigate the nature of the offense. Therefore, a single drug abuse offense may be combined with one or more minor disciplinary infractions or incidents of other misconduct and processed for separation under paragraph 14-12a or 14-12b as appropriate.

e. Army Regulation 635-5-1 (Separation Program Designator (SPD) Codes), provides the specific authorities (regulatory or directive), reasons for separating Soldiers from active duty, and the SPD codes to be entered on the DD Form 214. It identifies the SPD code of "JKK" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, misconduct (drug abuse).

f. Army Regulation 601-210, (Regular Army and Reserve Components Enlistment Program), governs eligibility criteria, policies, and procedures for enlistment and processing of persons into the Regular Army, the U.S. Army Reserve, and Army National Guard for enlistment per DODI 1304.26. It also prescribes the appointment, reassignment, management, and mobilization of Reserve Officers' Training Corps cadets under the Simultaneous Membership Program. Chapter 4 provides the criteria and procedures for waiverable and nonwaiverable separations. Table 3-1 defines reentry eligibility (RE) codes: RE-4 Applies to: Person separated from last period of service with a nonwaiverable disqualification. This includes anyone with a DA imposed bar to reenlistment in effect at time of separation or separated for any reason (except length of service retirement) with 18 or more years active Federal service. Eligibility: Ineligible for enlistment.

8. SUMMARY OF FACT(S): The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

The applicant requests an upgrade to honorable. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant contends the narrative reason for the discharge needs to be changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12c(2), AR 635-200 with a honorable discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Misconduct (Drug Abuse)," and the separation code is "JKK." Army Regulation 635-8 (Separation Processing and Documents) governs preparation of the DD Form 214 and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be as listed in tables 2-2 or 2-3 of AR 635-5-1 (Separation Program Designator (SPD) Codes). The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant contends suffering from problems connected to both traumatic brain injury (TBI) and post-traumatic stress disorder (PTSD). The applicant provided a Mental Status Evaluation, 12 January 2011, reflecting the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant was mentally responsible with a clear-thinking process and had the mental capacity to understand and participate in the proceedings. Also, a Report of Medical Examination, 23 March 2011, the examining medical physician noted the applicant's medical conditions in the comments section. The applicant was attending Behavioral

Health for counseling. The AMHRR includes the same mental status evaluation and Report of Medical Examination. All medical documents were considered by the separation authority.

The applicant contends their physical and mental health conditions had prompted their doctor to recommend a medical discharge. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. Army Regulation 635-200, in pertinent part, stipulates commanders will not separate Soldiers for a medical condition solely to spare a Soldier who may have committed serious acts of misconduct.

The application contends their doctor recommended against doing a urine test while the applicant was a patient, but the applicant's unit nevertheless tried to have them take one. After receiving an Article 15 for drug usage, the applicant was discharged. The applicant did not submit any evidence, other than the applicant's statement, to support the contention. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

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.

The applicant contends rescuing the life of a parent who lost a child in a drunk driver's car accident. Additionally, the applicant assists veterans in their transition from the armed forces. 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, the applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses/experiences: Adjustment Disorder, Anxiety Disorder NOS, PTSD, TBI, and Dysthymic Disorder.

(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, Anxiety Disorder NOS, PTSD, TBI and Dysthymic Disorder, and the VA has service connected the 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. The applicant was diagnosed in service with an Adjustment Disorder, Anxiety Disorder NOS, PTSD, TBI and Dysthymic Disorder, and the VA has service connected the PTSD. Given the nexus between Anxiety Disorder NOS, PTSD, TBI, self-medicating with substances, and avoidance, the wrongful use of marijuana and AWOLs that led to the

separation are mitigated.

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

b. Response to Contention(s):

(1) The applicant contends suffering from problems connected to both traumatic brain injury (TBI) and post-traumatic stress disorder (PTSD). The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder, Traumatic Brain Injury, and Anxiety Disorder outweighed the applicant's illegal substance abuse and AWOL offenses.

(2) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention during proceedings, but ultimately did not address it in detail due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder, Traumatic Brain Injury, and Anxiety Disorder outweighing the separating illegal substance abuse and AWOL offenses.

(3) The applicant contends their physical and mental health conditions had prompted their doctor to recommend a medical discharge. The Board determined that the applicant's concern regarding a recommendation for a medical discharge does not fall within the purview of the ADRB. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using a DD Form 293 regarding this matter. A DD Form 293 may be obtained online at <https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd0293.pdf> or from a Veterans' Service Organization.

(4) 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.

(5) The applicant contends rescuing the life of a parent who lost a child in a drunk driver's car accident. Additionally, the applicant assists veterans in their transition from the armed forces. The Board considered the post-service accomplishments 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, Traumatic Brain Injury, and Anxiety Disorder outweighing the separating illegal substance abuse and AWOL offenses.

c. The Board, based on the applicant's Post Traumatic Stress Disorder, Traumatic Brain Injury, and Anxiety Disorder outweighing the applicant's illegal substance abuse and AWOL offenses, determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), the separation code to JKN, and the reentry code to RE-3. The Board determined the characterization of service was proper and equitable and voted not to change it.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**AR20210000605****d. Rationale for Decision:**

(1) The Board voted not to change the applicant's characterization of service as the applicant already holds an honorable characterization and further relief is not available.

(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) based on the applicant's Post Traumatic Stress Disorder, Traumatic Brain Injury, and Anxiety Disorder outweighing the applicant's illegal substance abuse and AWOL offenses, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

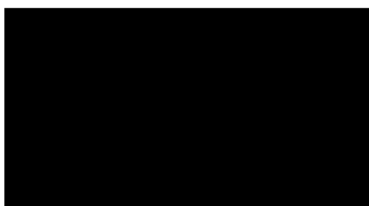
(3) The RE code will change to RE-3.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214: Yes
- b. Change Characterization to: No Change
- c. Change Reason / SPD Code to: Misconduct (Minor Infractions)/JKN
- d. Change RE Code to: RE-3
- e. Change Authority to: AR 635-200

Authenticating Official:

11/21/2024

**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