

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 service was exemplary up to a point in time. The applicant served a tour in Iraq and while there, experienced many stressful events and was awarded the Combat Infantry Badge for the service in Iraq. When the applicant returned from the tour in Iraq, they had already been diagnosed with severe symptoms of PTSD and was afforded medication to help with the depressive symptoms of the disorder. It was during this time which they began to display the erratic behavior which ultimately led to the discharge. The applicant was taking medication to alleviate the intrusive thoughts that 300 plus combat mission can inflict on a Soldier. Since being discharged, the character of service has hindered the applicant and they have become isolated from the world; preferring to be left alone. The applicant has been married and divorced twice; recently lost a fiancé' and a job. The applicant lives with their parent, who is their biggest supporter and would run through hell in a gasoline suit for them. The applicant self-medicated to cope with the pain they experienced while serving in Iraq. The applicant realizes they made mistakes in judgment and the mistakes could have jeopardized others and for all of it they are deeply sorry and regrets their actions. The applicant was proud to serve the country and looked forward to a successful career in the Army; unfortunately, the dream was shattered by the experiences in Iraq and after they returned. An upgrade would allow the applicant to grasp a small portion of the dignity and pride they had when they entered the military and allow the applicant to receive the medical treatment they need.

b. Board Type and Decision: In a records review conducted on 19 November 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse, FTR, leaving the appointed place of duty, and AWOL 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, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code to RE-3.

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 / General (Under Honorable Conditions)

b. Date of Discharge: 10 September 2007

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 21 August 2007

(2) Basis for Separation: The applicant was informed of the following reasons: Wrongful use of controlled substances, to wit: Cocaine (two occasions) and Marijuana; failure to report; AWOL from 5 to 8 May 2007; and going from the appointed place of duty.

(3) Recommended Characterization: Under Other Than Honorable Conditions

(4) Legal Consultation Date: 3 July 2007

(5) Administrative Separation Board: On 18 June 2007, the applicant unconditionally waived consideration of the case before an administrative separation board as part of an Offer to Plead Guilty in a Summary Court-Martial proceedings.

(6) Separation Decision Date / Characterization: 14 September 2007 / Under Other Than Honorable Conditions / The date appears to be an error as it is after the discharge date.

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 24 May 2005 / 4 years, 16 weeks

b. Age at Enlistment / Education / GT Score: 19 / GED / 112

c. Highest Grade Achieved / MOS / Total Service: E-3 / 11B10, Infantryman / 2 years, 2 months, 20 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: SWA / Iraq (15 December 2005 – 5 December 2006)

f. Awards and Decorations: NDSM, GWOTSM, ASR, ICM-BS, OSR, CIB

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: DD Form 2624, 12 February 2007, reflects the applicant tested positive for COC (cocaine), during an Inspection Unit (IU) urinalysis testing, conducted on 1 February 2007.

DD Form 2624, 27 February 2007, reflects the applicant tested positive for COC (cocaine), during an Inspection Unit (IU) urinalysis testing, conducted on 20 February 2007.

Electronic Copy of DD Form 2624, 13 March 2007, reflects the applicant tested positive for THC 104 (marijuana), during an Inspection Unit (IU) urinalysis testing, conducted on 5 March 2007.

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

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 5 May 2007;
 From AWOL to PDY, effective 8 May 2007;
 From Present for Duty (PDY) to Confined by Military Authorities (CMA) effective 3 July 2007;
 and,

From CMA to PDY, effective 27 July 2007.

Charge Sheet, 7 June 2007, reflects the applicant was charged with:

Charge I: Violation of Article 85, UCMJ:

Specification 1: On or about 6 June 2007, without authority, fail to go at the appointed place of duty.

Specification 2: On or about 5 May 2007, without authority absent oneself from the unit and did remain so absent until on or about 8 May 2007.

Specification 3: On or about 23 April 2007, without authority, go from the appointed place of duty.

Charge II: Violation of Article 112a, UCMJ:

Specification 1: Between on or about 13 February 2007 and 5 March 2007, wrongfully use marijuana.

Specification 2: Between on or about 18 and 20 February 2007, wrongfully use cocaine.

Specification 3: Between on or about 30 January and 1 February 2007, wrongfully use cocaine.

Report of Result of Trial reflects the applicant was tried in a Summary Court-Martial on 3 July 2007 and found guilty of three specifications of violating Article 86, UCMJ, for failure to report on or about 6 June 2007, absent from the unit between on or about 5 May 2007, and going from the place of duty on or about 23 April 2007; and guilty of three specifications of violating Article 112a, UCMJ, for wrongful use of marijuana between on or about 13 February and 5 March 2007; wrongful use of cocaine between on or about 18 February and 20 February 2007; and wrongful use of cocaine between on or about 30 January and 1 February 2007. The sentence consisted of reduction to E-1, forfeiture of \$400 pay for one month, and confinement for 30 days.

Two Developmental Counseling Forms, for performance and testing positive on urinalysis for a controlled substance.

i. Lost Time / Mode of Return: 25 days:

AWOL, 5 May 2007 – 7 May 2007 / NIF

CMA, 3 July 2007 – 26 July 2007 / Released from Confinement

j. Behavioral Health Condition(s):

(1) Applicant provided: Memorandum for the Record, 15 August 2006, reflects the applicant was in treatment at a clinic for what appeared to be rather serious symptoms of PTSD. Additionally, it was the opinion the applicant's symptoms were likely to worsen if they were given missions outside the wire in the near future.

Letter, 17 April 2007, reflects the applicant had been treated for PTSD since 5 March 2007 and was diagnosed while in Iraq in August 2006. The medications the applicant was given had not stabilized the condition and they had adverse reactions to them. The medications had been

adjusted unsuccessfully and it was recommended they be kept from the field until they could be stabilized and given a chance to respond to medication, treatment, the drug treatment program, etc.

Health Record, 17 August 2007, reflects the applicant was being treated for chronic PTSD, cocaine abuse, and cannabis-related disorders.

Department of Veterans Affairs letter, 25 May 2011, reflects the applicant was diagnosed with Axis I: 309.81 Post Traumatic Stress Disorder, severe, chronic 305.2 Cannabis Abuse (by history) and Axis IV: Iraq (OIF) combat veteran, post deployment adjustment problems impacting relationships, occupational functioning, social interactions, administratively discharged from military for misconduct (drug abuse); problems with social environment.

(2) AMHRR Listed: Report of Mental Status Evaluation (MSE), 17 August 2007, reflects the applicant was psychologically 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. The applicant was diagnosed with Axis I: PTSD, cannabis use, THCI abuse.

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; Application for Correction of Military Record; self-authored statement; VSO authored statement; five third-party letters; Certificate of Release or Discharge from Active Duty; Recommendation for Award; Active Duty Consult Summary; ABCMR letter; Power of Attorney; prescription; Memorandum for Record; Health Record; VA Statement to Support Claim Form.

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) 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.

(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 contends good service, including a combat tour and receiving the Combat Infantry Badge.

The applicant contends returning from a tour in Iraq, having already been diagnosed with severe symptoms of PTSD and was afforded medication to help with the depressive symptoms of the disorder. During this time, the applicant began to display the erratic behavior which ultimately led to the discharge. The applicant was taking medication to alleviate the intrusive thoughts a 300 plus combat mission can inflict on a Soldier. The applicant self-medicated to cope with the pain they experienced while serving in Iraq. The applicant realizes making mistakes in judgment and the mistakes could have jeopardized others; and for all of it they are deeply sorry and regret their actions. The applicant was proud to serve the country and looked forward to a successful career in the Army; unfortunately, the dream was shattered by the experiences in Iraq and after they returned. The applicant provided a Memorandum for the Record, 15 August 2006, which

reflects the applicant was in treatment for what appeared to be rather serious symptoms of PTSD. Additionally, it was the opinion the applicant's symptoms were likely to become worse if they were given missions outside the wire in the near future. Letter, 17 April 2007, reflects the applicant had been treated for PTSD since 5 March 2007 and was diagnosed while in Iraq in August 2006. The applicant was given medications which did not stabilize the condition and the applicant had adverse reactions to them. The medications had been adjusted unsuccessfully and it was recommended the applicant be kept from the field until they could be stabilized and given a chance to respond to medication, treatment, the drug treatment program, etcetera. A Health Record, 17 August 2007, reflects the applicant was being treated for chronic PTSD, cocaine abuse, and cannabis-related disorders. A Department of Veterans Affairs letter, 25 May 2011, reflects the applicant was diagnosed with Axis I: 309.81 Post Traumatic Stress Disorder, severe, choric 305.2 Cannabis Abuse (by history) and Axis IV: Iraq (OIF) combat veteran, post deployment adjustment problems impacting relationships, occupational functioning, social interactions, administratively discharged from military for misconduct (drug abuse); problems with social environment. The AMHRR shows the applicant underwent a mental status evaluation (MSE) on 17 August 2007, which reflects the applicant was psychologically 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. The applicant was diagnosed with Axis I: PTSD, cannabis use, THC/I abuse.

The applicant contends an upgrade of the discharge would allow veterans benefits. Eligibility for veteran's benefits 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 third-party statements provided with the application reflect how the applicant returned from a deployment to Iraq with PTSD.

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.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board found the applicant is 70 percent SC for PTSD.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board determined, based on the BMA's opine, that the applicant's behavioral health conditions mitigate the discharge. Given the nexus between PTSD and the use of substances to self-medicate, and PTSD and avoidant behavior, the applicant's offenses of wrongful use of cocaine, wrongful use of marijuana, FTR, leaving the appointed place of duty, and AWOL, are 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 applicant's illegal substance abuse, FTR, leaving the appointed place of duty, and AWOL offenses.

b. Response to Contention(s):

(1) The applicant contends returning from a tour in Iraq, already having been diagnosed with severe symptoms of PTSD and was afforded medication to help with the depressive symptoms of the disorder. During this time, the applicant began to display the erratic behavior which ultimately led to the discharge. The applicant was taking medication to alleviate the intrusive thoughts a 300 plus combat mission can inflict on a Soldier. The applicant self-medicated to cope with the pain they experienced while serving in Iraq. The applicant realizes making mistakes in judgment and the mistakes could have jeopardized others; and for all of it they are deeply sorry and regret their actions. The applicant was proud to serve the country and looked forward to a successful career in the Army; unfortunately, the dream was shattered by the experiences in Iraq and after they returned. The Board liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder outweighed the applicant's illegal substance abuse, FTR, leaving the appointed place of duty, and AWOL offenses. Therefore, a discharge upgrade is warranted.

(2) The applicant contends good service, including a combat tour and receiving the Combat Infantry Badge. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse, FTR, leaving the appointed place of duty, and AWOL offenses.

(3) The applicant contends an upgrade of the discharge would allow veterans benefits. 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 illegal substance abuse, FTR, leaving the appointed place of duty, and AWOL 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, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code to RE-3.

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, FTR, leaving the appointed place of duty, and AWOL offenses. 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 change to RE-3.

10. BOARD ACTION DIRECTED:**a. Issue a New DD-214: Yes**

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210000616

- b. Change Characterization to: Honorable
- 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:

11/25/2024



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