

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, the applicant served the country in Iraq honorably and respectfully. The applicant always placed the mission first and never accepted defeat, nor did the applicant ever leave a fallen comrade. The applicant worked 17-hour days and 9 days straight. The applicant had been shot at on almost a daily basis, living in constant fear for their life. The applicant fell out of a helicopter in Iraq, and it knocked the applicant unconscious. It was a highly stressful and very dangerous environment, but the applicant buckled down and numbed themselves of emotions and fear to be able to carry out the missions. When the applicant returned, the applicant was in complete denial they needed help, and began to self-medicate using marijuana. The applicant knew it was wrong, but did not know how else to cope with their disconnection from reality. The applicant did not seek help because the applicant placed the mission first and disregarded their mental health and disability. The applicant is still a Soldier, at heart. The applicant believed their discharge should be changed because the applicant never decided to leave the Army and wanted to make it a career. When the applicant was informed, they were going to be reduced, the applicant could not work on helicopters anymore, which was the applicant's passion. The applicant believed they were betrayed because they gave their heart, blood, sweat, and tears to the Army. The applicant is getting their life together. The applicant was diagnosed with post-traumatic stress disorder (PTSD), adjustment disorder, and mood disorder. The applicant is proud to be an American and never regretted fighting for the Army.

b. Board Type and Decision: In a records review conducted on 22 October 2024, and by a 5-0 vote, the Board found the applicant's characterization of service both proper and equitable. However, based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse and FTR offenses, the Board 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), and the separation code to JKN. The reentry eligibility code will change 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, Paragraph 14-12c (2) / JKK / RE-4 / Honorable

b. Date of Discharge: 4 October 2006**c. Separation Facts:**

(1) Date of Notification of Intent to Separate: 30 August 2006

(2) Basis for Separation: The applicant was informed of the following reasons: Between 18 March and 18 April 2006, the applicant wrongfully used marijuana.

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

(4) Legal Consultation Date: 6 September 2006

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 14 September 2006 / General (Under Honorable Conditions) / AR 635-200, Chapter 14-12c, Commission of a Serious Offense (Drug Abuse).

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 15 January 2004 / 6 years

b. Age at Enlistment / Education / GT Score: 21 / HS Graduate / 99

c. Highest Grade Achieved / MOS / Total Service: E-4 / 15U10, CH-47 Helicopter Repairman / 2 years, 8 months, 20 days active service / The 4 months, 26 days prior inactive duty reflected on the applicant's DD Form 214 is service in the Delayed Entry Program.

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: Alaska, SWA / NIF

f. Awards and Decorations: ARCOM, NDSM, GWOTEM, GWOTSM, ASR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Electronic Copy of DD Form 2624, 2 May 2006, reflects the applicant tested positive for THC 161 (marijuana), during an Inspection Random (IR) urinalysis testing, conducted on 18 April 2006.

Military Police Report, 23 May 2006, reflects the applicant was apprehended for: controlled substance violations, use of marijuana, determined by urinalysis test, and possession of marijuana (off post). Investigation revealed the applicant submitted a urine specimen on 18 April 2006, during the conduct of a unit urinalysis test, which subsequently tested positive for marijuana. The applicant waived the rights and admitted to the offense.

Field Grade Article 15, 13 June 2006, for failing to go at the time prescribed to the appointed place of duty (x4) (30 May and 2, 5, and 6 June 2006), and wrongfully using marijuana (between 9 April and 9 May 2006). The punishment consisted of a reduction to E-1; forfeiture of \$636 pay per month for two months (suspended); and extra duty and restriction for 45 days.

Six Developmental Counseling Forms, for failing to report to formation on multiple occasions and testing positive for cannabis.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Department of Veterans Affairs Medical Center (VAMC) medical records, from 14 August 2013 and 6 January 2014, reflecting the applicant was diagnosed with PTSD, mood disorder, NOS rule out bipolar disorder II; cocaine dependence in early remission; cannabis dependence in early remission; and nicotine dependence.

Department of Veterans Affairs Medical Center letter, 21 January 2014, reflecting on 7 August 2013, the applicant was admitted in the Domiciliary Residential Rehabilitation and Treatment Program and was scheduled to complete treatment on 7 February 2014 for chemical dependency and mental health.

Department of Veterans Affairs Medical Center letter, 31 January 2014, reflecting the applicant was diagnosed with PTSD; mood disorder, not otherwise specified (NOS), rule out bipolar disorder II; and bulimia nervosa.

(2) AMHRR Listed: Report of Behavioral Health Evaluation, 28 August 2006, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; was mentally responsible; and met medical retention requirements. The applicant was diagnosed with cannabis abuse episodic.

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; two VA letters; VAMC medical records; and third party character reference.

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 3-5c, 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) Paragraph 3-8a states a Soldier is entitled to an honorable characterization of service if limited-use evidence (see AR 600-85) is initially introduced by the Government in the discharge proceedings, and the discharge is based upon those proceedings. The separation authority will consult with the servicing Judge Advocate in cases involving limited use evidence.

(6) 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.

(7) 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.

(8) 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.

(9) 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 a narrative reason change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant contends being diagnosed with PTSD, adjustment disorder, and mood disorder and the conditions affected behavior, which led to the discharge. The applicant provided several medical documents indicating the applicant was diagnosed with PTSD, mood disorder, NOS rule out bipolar disorder II; cocaine dependence in early remission; cannabis dependence in early remission; and nicotine dependence. The applicant provided a third party statement which described the applicant's change in behavior after returning from combat to support the applicant's contention. The AMHRR shows the applicant underwent a behavioral health evaluation (BHE) on 28 August 2006, which indicates the applicant was mentally responsible. The applicant was diagnosed with cannabis abuse episodic. The BHE was considered by the separation authority.

The applicant contends good service, including a combat tour in Iraq. The applicant provided a third party statement to support the applicant's contention of serving honorably in Iraq. The applicant's AMHRR reflects the applicant was awarded the GWOTEM. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

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, GAD, Bipolar Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor 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, the applicant's wrongful use of marijuana is mitigated. The applicant's FTR offense is also mitigated given the nexus between PTSD and avoidant behavior.

(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 and FTR offenses.

b. Response to Contention(s):

(1) The applicant contends being diagnosed with PTSD, adjustment disorder, and mood disorder and the conditions affected behavior, which led to the discharge. The Board

liberally considered this contention and determined that the applicant's Post Traumatic Stress Disorder outweighed the applicant's illegal substance abuse and FTR offenses. Therefore, a discharge upgrade is warranted.

(2) The applicant contends the narrative reason should be changed. 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 and FTR offenses.

(3) The applicant contends good service, including a combat tour in Iraq. 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 and FTR offenses.

c. The Board found the applicant's characterization of service both proper and equitable. However, based on the applicant's Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse and FTR offenses, the Board 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), and the separation code to JKN. The reentry eligibility code will change to RE-3:

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 medical mitigation of the applicant's misconduct, 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, as the current code is consistent with the procedural and substantive requirements of the regulation.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

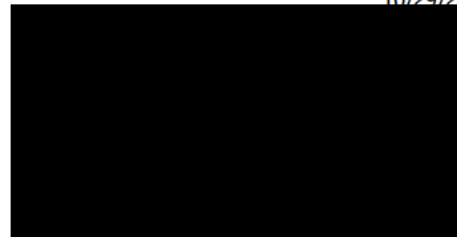
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10. BOARD ACTION DIRECTED:

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

10/29/2024



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
UOTHHC – Under Other Than
Honorable Conditions
VA – Department of Veterans
Affairs