

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 is considered for a change to the narrative reason for separation.

The applicant seeks relief contending, in effect, there was an error on the applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty). The applicant was granted an honorable discharge because of the error on the DD Form 214 and their current disability. After the discharge, the applicant experienced difficulty finding jobs and furthering their education. The applicant does not believe they should be held back anymore. While the applicant was being processed for separation from the Army, the applicant was under extreme stress and was depressed. The applicant was granted disability for the depression. The applicant hopes an upgrade would help them get their life back on track. There are people in the world who have given up on life after the military, but the applicant does not intend to be one of those people. Despite the mistakes the applicant has made, the applicant desires to continue their journey going up from here.

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 Depression 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), and the separation code to JKN. 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, Paragraph 14-12c (2) / JKK / RE-4 / Honorable

b. Date of Discharge: 27 October 2011

c. Separation Facts: The applicant's Army Military Human Resource Record (AMHRR) is void of the separation authority's approval memorandum. However, the applicant provided a document which is described below in 3c (6).

(1) Date of Notification of Intent to Separate: 20 October 2011

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant tested positive for marijuana, a schedule I controlled substance on two separate occasions;

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on 4 August 2011, the applicant received a Field Grade Article 15; and from 20 September to 19 October 2011, was absent without leave (AWOL).

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

(4) Legal Consultation Date: On 20 October 2011, the applicant waived legal counsel.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 20 October 2011 / Honorable

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 19 February 2010 / 3 years

b. Age at Enlistment / Education / GT Score: 23 / HS Graduate / 96

c. Highest Grade Achieved / MOS / Total Service: E-4 / 42A10, Human Resources Specialist / 5 years, 6 days

d. Prior Service / Characterizations: ARNG, 23 September 2006 – 16 December 2008 / HD
IADT, 17 October 2006 – 23 March 2007 / UNC
(Concurrent Service)
ADSW, 18 June 2007 – 29 February 2008 / HD
(Concurrent Service)
ADSW, 21 April 2008 – 7 September 2008 / HD
(Concurrent Service)
RA, 17 December 2008 – 18 February 2010 / HD

e. Overseas Service / Combat Service: Germany / None

f. Awards and Decorations: AAM, NDSM, GWOTSM, ASR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Electronic Copy of DD Form 2624, 29 June 2011, reflects the applicant tested positive for THC 17 (marijuana), during an Inspection Random (IR) urinalysis testing, conducted on 20 June 2011.

Electronic Copy of DD Form 2624, 21 July 2011, reflects the applicant tested positive for THC 37 (marijuana), during an Inspection Random (IR) urinalysis testing, conducted on 13 July 2011.

Field Grade Article 15, 4 August 2011, for on two occasions, wrongfully using marijuana (between 29 June and 13 July 2011 and between 6 and 20 June 2011). The punishment consisted of a reduction to E-1.

Army Substance Abuse Program (ASAP) Enrollment form, 9 August 2011, reflects the applicant was command-referred in the ASAP because of positive urinalysis results.

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

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 20 September 2011; and

From AWOL to PDY, effective 19 October 2011.

Seven Developmental Counseling Forms, for testing positive on a urinalysis on two occasions; favorable actions being suspended; being recommended for separation.

i. Lost Time / Mode of Return: 29 days (AWOL, 20 September 2011 – 18 October 2011) / NIF

j. Behavioral Health Condition(s):

(1) Applicant provided: The Department of Veterans Affairs (VA) letter, 24 October 2012, reflecting the applicant's service from 17 December 2008 and 27 October 2011 to be honorable for VA purposes. The record shows the Report of Medical Examination, 26 August 2011, a diagnosis of post-partum depression.

The Department of Veterans Affairs letter, 18 August 2016, reflecting the records certify the applicant separated under honorable conditions from active duty military service and the applicant was entitled to compensation for service-connected disability(ies) which are least 30 percent or more disabling.

(2) AMHRR Listed: Report of Mental Status Evaluation, 17 August 2011, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant was diagnosed with cannabis dependence and post-partum depression, by history.

Report of Medical Examination, 26 August 2011, the examining medical physician noted in the summary of defects and diagnoses section: post-partum depression; drug use.

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 Correction of Military Record; Application for the Review of Discharge; separation authority's memorandum; battalion commander's recommendation for separation memorandum; and two VA letters.

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) 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 current characterization of service for the period under review is honorable. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant contends post-partum depression affected behavior which led to the discharge and is receiving disability for the condition. The applicant provided medical documents reflecting the VA rated the applicant 30 percent disabled. The documents did not specify, which medical conditions were rated, but does mention the applicant was diagnosed with post-partum depression in the Report of Medical Examination, 26 August 2011. The applicant's AMHRR shows the applicant underwent a mental status evaluation on 17 August 2011, which indicates the applicant was mentally responsible and was able to recognize right from wrong. The applicant was diagnosed with cannabis dependence and post-partum depression, by history. The applicant underwent a medical examination on 26 August 2011 and was diagnosed with post-partum depression and drug use. The document in the applicant's AMHRR were considered by the separation authority.

The applicant contends an upgrade of the discharge will allow the applicant to obtain better employment. The Board does not grant relief to gain employment or enhance employment opportunities.

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 there was an error on the applicant's DD Form 214 and because of the error and the applicant's disability rating, the applicant was granted an honorable discharge upon the applicant's request to correct the error. On 10 May 2019, the applicant's case was reviewed by the Army Board for Correction of Military Records (ABCMR), and the ABCMR determined the applicant's in-service and post-service diagnosed mental health conditions were mitigating for their drug use. The ABCMR upgraded the applicant's discharge to honorable.

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: Postpartum Depression and Major Depressive Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was diagnosed in service with Postpartum Depression and is service connected by the VA for Major Depressive Disorder.

(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 Depression, self-medicating with substances, and avoidance, the marijuana use and AWOL that led to the applicant's 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 Depression outweighed the separating illegal substance abuse and AWOL offenses.

b. Response to Contention(s):

(1) The applicant contends post-partum depression affected behavior which led to the discharge and is receiving disability for the condition. The Board liberally considered this contention and determined that the applicant's Depression outweighed the applicant's illegal substance abuse and AWOL offenses. Therefore, a discharge upgrade is warranted.

(2) The applicant contends an upgrade of the discharge will allow the applicant to obtain better employment. The Board considered this contention but does not grant relief to gain employment or enhance employment opportunities.

(3) 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.

(4) The applicant contends there was an error on the applicant's DD Form 214 and because of the error and the applicant's disability rating, the applicant was granted an honorable discharge upon the applicant's request to correct the error. The Board noted this issue and directed that it be corrected.

c. The Board, (based on the applicant's Depression 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), and the separation code to JKN. The Board determined the characterization of service is proper and equitable and voted not to change it.

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 separating 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: Honorable (correction to previous DD Form 214)

c. Change Reason / SPD Code to: Misconduct (Minor Infractions)/JKN

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