

**1. Applicant's Name:** [REDACTED]**a. Application Date:** 26 April 2021**b. Date Received:** 26 April 2021**c. Counsel:** [REDACTED]**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, through counsel, requests a narrative reason change to "Miscellaneous" and SPD code change.

The applicant seeks relief contending, in effect, the applicant was the victim of a substantial error in fact by the Army. The applicant was misdiagnosed with an adjustment disorder and found fit for duty when they were clearly suffering from PTSD. The applicant attempted to utilize the chain of command for help; however, was denied help. They began to self-medicate with marijuana, which ultimately led to the discharge from the Army. If the applicant had been properly diagnosed and treated when they requested help, they would not have needed to turn to marijuana to alleviate their anxiety and fall asleep at night.

**b. Board Type and Decision:** In a records review conducted on 24 October 2024, and by a 3-2 vote, the Board, based on the applicant's Anxiety and Post Traumatic Stress Disorder outweighing the applicant's wrongfully used marijuana, 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. 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:** 4 May 2012**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 14 March 2012

**(2) Basis for Separation:** The applicant was informed of the following reasons: The applicant wrongfully used marijuana between 19 November and 19 December 2011.

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

**(4) Legal Consultation Date:** 21 March 2012

**(5) Administrative Separation Board:** NA

**(6) Separation Decision Date / Characterization:** 18 March 2012 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 9 October 2008 / 4 years

**b. Age at Enlistment / Education / GT Score:** 18 / High School Graduate / 112

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 68W10, Health Care Specialist / 3 years, 6 months, 26 days

**d. Prior Service / Characterizations:** None

**e. Overseas Service / Combat Service:** SWA / Afghanistan (20 August 2010 – 14 August 2011)

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

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** FG Article 15, 2 February 2012, for wrongfully using marijuana (between on or about 19 November and 19 December 2011). The punishment consisted of a reduction to E-1; forfeiture of \$745 pay per month for two months; and extra duty and restriction for 45 days.

Developmental Counseling Form, for reporting late to formation; violation of Article 92 (Failure to obey order or regulation) and violation of Article 112a (Wrongful use, possession, etc., of controlled substances).

**i. Lost Time / Mode of Return:** None

**j. Behavioral Health Condition(s):**

**(1) Applicant provided:** Health Record, Chronological Record of Medical Care, 26 January 2010 through 27 February 2012, reflects autocites as Adjustment Disorder with Disturbance of Emotions; Adjustment Disorder; Adjustment Disorder with Disturbance of Emotions and Conduct.

Report of Medical History, 19 January 2012, the examining medical physician noted the applicant was treated for significant anxiety with panic attacks. The diagnosis was Anxiety Disorder NOS vs Adjustment Disorder w/anxiety. The applicant admitted to marijuana use to attempt to relieve the symptoms. The applicant was currently being followed by ABH.

Report of Medical Examination, 26 January 2012, the examining medical physician noted the applicant's summary of defects and diagnoses as Anxiety NOS vs Adjust Disorder.

Report of Mental Status Evaluation (MSE), 2 March 2012, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant had been screened for PTSD and mTBI. The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The applicant was diagnosed with: Axis I: Anxiety Disorder NOS.

Department of Veterans Affairs letter, 20 December 2012, reflects the applicant was diagnosed with: Axis I: PTSD and Axis IV: unemployed, relationship breakup.

**(2) AMHRR Listed:** Report of Medical History, Report of Medical Examination, and Report of Mental Status Evaluation (MSE) as previously stated in paragraph 4j(1).

*The ARBA's medical advisor reviewed DoD and VA medical records, including documents listed in 4j(1) and (2) above.*

**5. APPLICANT-PROVIDED EVIDENCE:** Application for the Review of Discharge; Certificate of Release or Discharge from Active Duty; attorney brief with exhibits 1 to 23.

**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 14-3 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.

(5) 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 and SPD code change. 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 to "Miscellaneous." 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 good service, including a combat tour and receiving several awards.

The applicant contends being misdiagnosed with an adjustment disorder when they were clearly suffering from PTSD. The applicant tried to utilize the chain of command for help; however, was denied. The applicant began to self-medicate with marijuana to alleviate anxiety and fall asleep at night. If the applicant had been properly diagnosed and treated, when they requested help, they would not have needed to turn to marijuana to alleviate the anxiety. The applicant provided a Health Record, Chronological Record of Medical Care, 26 January 2010 through 27 February 2012, which reflects autocites as Adjustment Disorder with Disturbance of Emotions; Adjustment Disorder; Adjustment Disorder with Disturbance of Emotions and Conduct. A Report of Medical History, 19 January 2012, the examining medical physician noted

the applicant was treated for significant anxiety with panic attacks. The diagnosis was Anxiety Disorder NOS vs Adjustment Disorder w/anxiety. The applicant admitted to marijuana use to attempt to relieve the symptoms. The applicant was currently being followed by ABH. A Report of Medical Examination, 26 January 2012, reflects the examining medical physician noted the applicant's summary of defects and diagnoses as Anxiety NOS vs Adjust Disorder. A Report of Mental Status Evaluation (MSE), 2 March 2012, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant had been screened for PTSD and mTBI. The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The applicant was diagnosed with: Axis I: Anxiety Disorder NOS. Department of Veterans Affairs letter, 20 December 2012, reflects the applicant was diagnosed with: Axis I: PTSD and Axis IV: unemployed, relationship breakup. The applicant also provided a third-party statement from their parent which reflects the changes they saw in the applicant when they returned from deployment. The AMHRR includes a Report of Medical History, Report of Medical Examination, and Report of Mental Status Evaluation (MSE) as previously described. All the medical documents included in the AMHRR were considered by the separation authority. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

#### **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 determined that a previous Board upgraded the applicant's characterization of service to Honorable, in part, based on the applicant's PTSD which now warrants reconsideration of the applicant's narrative reason, RE Code, and SPD Code. Based on the Board Medical Advisor opine, the Board determined that the applicant has the following potentially-mitigating diagnoses/experiences: Adjustment Disorder, Anxiety, PTSD.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board determined that, based on the Board Medical Advisor opine, the applicant's Adjustment Disorder, Anxiety Disorder NOS, and PTSD existed during the applicant's military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board determined, based on the Board Medical Advisor opine, that the applicant's behavioral health conditions mitigate the marijuana use given the nexus between Anxiety, PTSD, and self-medicating with substances.

(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 Anxiety and Post Traumatic Stress Disorder outweighed the applicant's wrongful use of marijuana warranting a change to the applicant's narrative reason, SPD and RE Code.

b. Response to Contention(s):

(1) The applicant contends that the applicant's discharge is improper because the Army did not properly diagnosis and treat the applicant for PTSD as it was clear the applicant was struggling with adjusting to societal norms after deployment and the applicant's medical records

support a PTSD diagnosis. The applicant contends that this misdiagnosis by the Army constitutes a substantial error of fact given the VA PTSD diagnosis five months after discharge. The Board considered this contention and determined the narrative reason should change to Misconduct (Minor Infractions) after considering the applicant's mitigated basis for separation but does not warrant a change to Miscellaneous as the applicant was involuntarily separated for misconduct, and the behavioral health condition does not fully excuse the applicant's responsibility for the misconduct.

(2) The applicant contends being misdiagnosed with an adjustment disorder when they were clearly suffering from PTSD. The applicant tried to utilize the chain of command for help; however, was denied. The applicant began to self-medicate with marijuana to alleviate anxiety and fall asleep at night. If the applicant had been properly diagnosed and treated, when they requested help, they would not have needed to turn to marijuana to alleviate the anxiety. The Board considered this contention and determined that there is no evidence that the chain of command acted with impropriety. The Board determined that the narrative reason should change to Misconduct (Minor Infractions) after considering the applicant's mitigated basis for separation but does not warrant a change to Miscellaneous as the applicant was involuntarily separated for misconduct, and the behavioral health condition does not fully excuse the applicant's responsibility for the misconduct.

(3) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention and determined that it was valid due to medical mitigation of the applicant's wrongful use of marijuana. The Board determined that the narrative reason should change to Misconduct (Minor Infractions) after considering the applicant's mitigated basis for separation but does not warrant a change to Miscellaneous as the applicant was involuntarily separated for misconduct, and the behavioral health condition does not fully excuse the applicant's responsibility for the misconduct.

(4) The applicant contends good service, including a combat tour and receiving several awards. The Board considered this contention and determined the narrative reason should change to Misconduct (Minor Infractions) after considering the applicant's mitigated basis for separation but does not warrant a change to Miscellaneous as the applicant was involuntarily separated for misconduct, and the behavioral health condition does not fully excuse the applicant's responsibility for the misconduct.

c. The Board, based on the applicant's Anxiety and Post Traumatic Stress Disorder outweighing the applicant's wrongful use of marijuana, 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) because the applicant was involuntarily separated for misconduct, and the behavioral health condition does not fully excuse the applicant's responsibility for the misconduct, and the separation code to JKN. The reentry eligibility code will change to RE-3. The Board determined the characterization of service was 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) due to the applicant's Anxiety and Post Traumatic Stress Disorder outweighing the applicant's illegal substance abuse offense, thus the reason for discharge is no longer

appropriate. The Board determined the narrative reason should change to Misconduct (Minor Infractions) after considering the applicant's mitigated basis for separation but does not warrant a change to Miscellaneous as the applicant was involuntarily separated for misconduct, and the behavioral health condition does not fully excuse the applicant's responsibility for the misconduct. The SPD code associated with the new reason for discharge is JKN.

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



# ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

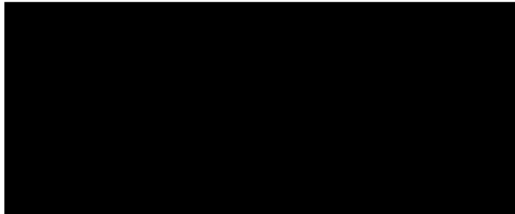
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## 10. BOARD ACTION DIRECTED:

- 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:

3/25/2025



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