

**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, not being afforded a proper opportunity to fully participate in the Alcohol Substance Abuse Program (ASAP). The applicant self-enrolled in the program, and through no fault of the applicant's, they were not allowed to complete the program, for which the applicant would have completed successfully. An upgrade would allow the applicant access to the GI Bill. The applicant is attending school full-time at their own expense. The applicant filed a Department of Veterans Affairs (VA) service-connected claim for post-traumatic stress disorder (PTSD). The applicant was using marijuana to cope with the pressures and stressors of their predeployment training. If the applicant had the tools to treat their mental health, they would not have needed to self-medicate. The applicant was unaware, at the time, of mental health or ASAP programs. While the applicant was deployed to Afghanistan, the applicant was nominated for Soldier of the Cycle for RC-East. After the military, the applicant was homeless and then worked with the VA to achieve sobriety and to further their education with a Bachelor's Degree in Sports Psychology. The applicant is pursuing a master's degree and has been clean and sober for five years, actively working on their Alcohol Anonymous Program.

**b. Board Type and Decision:** In a records review conducted on 17 October 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's combat service, post-service accomplishments, and history of homelessness. 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, Paragraph 14-12c (2) / JKK / RE-4 / General (Under Honorable Conditions)

**b. Date of Discharge:** 8 June 2012**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 18 April 2012

**(2) Basis for Separation:** The applicant was informed of the following reasons: The applicant wrongfully used marijuana.

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

**(4) Legal Consultation Date:** 23 April 2012

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

**(6) Separation Decision Date / Characterization:** 10 May 2012 / General (Under Honorable Conditions)

#### **4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 10 August 2010 / 4 years, 16 weeks

**b. Age at Enlistment / Education / GT Score:** 20 / HS Graduate / 113

**c. Highest Grade Achieved / MOS / Total Service:** E-3 / 11B10, Infantryman / 1 year, 9 months, 29 days / The inactive duty service of 4 months, 2 days, reflected on the DD Form 214 was service in the Delayed Entry Program.

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

**e. Overseas Service / Combat Service:** Alaska, SWA / Afghanistan (NIF)

**f. Awards and Decorations:** ACM-CS, NDSM, GWOTSM, ASR, OSR

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Electronic Copy of DD Form 2624, 29 November 2011, reflects the applicant tested positive for THC 54 (marijuana), during an Inspection Random (IR) urinalysis testing, conducted on 16 November 2011.

Field Grade Article 15, 6 March 2012, for wrongfully using marijuana (between 17 October and 16 November 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.

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

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

**(1) Applicant provided:** Department of Veterans Affairs, 23 April 2018, reflecting the VA rated the applicant 100 percent disabling for PTSD with alcohol disorder, moderate, agoraphobia, and major depressive disorder (previously rated as PTSD, with alcohol disorder moderate).

**(2) AMHRR Listed:** Report of Mental Status Evaluation, 8 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 mild traumatic brain injury (mTBI). The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The command was

advised to consider the influence of these conditions. The applicant was diagnosed with cannabis 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:** Certificate of Release or Discharge from Active Duty; two Applications for the Review of Discharge; and VA Rating Decision.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant obtained a bachelor's degree, is pursuing a master's degree, and has been sober for five years.

**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) 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.

(6) 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.

(7) 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.

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

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

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

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

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

The applicant contends suffering from PTSD and the condition affected behavior, which led to the discharge. The applicant provided medical documents indicating the VA rated the applicant 100 percent disability for PTSD with alcohol disorder, moderate, agoraphobia, and major depressive disorder. The AMHRR shows the applicant underwent a mental status evaluation (MSE) on 8 March 2012, which indicates the applicant was mentally responsible and recognized right from wrong. The applicant was diagnosed with cannabis abuse. The MSE was considered by the separation authority.

The applicant contends the applicant did not receive any help for PTSD and the applicant self-enrolled in the ASAP, but was not allowed to complete the program. The applicant did not provide any evidence, other than the applicant's statement to support the contention the applicant self-enrolled in the ASAP. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends good service, including a combat tour in Afghanistan. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

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 attaining a bachelor's degree, pursuing a master's degree, and being sober for five years. The Army Discharge Review Board is authorized to consider post-service factors in the recharacterization of a discharge. No law or regulation provides for the upgrade of an unfavorable discharge based solely on the passage of time or good conduct in civilian life after leaving the service. The Board reviews each discharge on a case-by-case basis to determine if post-service accomplishments help demonstrate previous in-service misconduct was an aberration and not indicative of the member's overall character.

#### **9. BOARD DISCUSSION AND DETERMINATION:**

a. As directed by the 2017 memo signed by A.M. Kurta, the board considered the following factors:

(1) Did the applicant have a condition or experience that may excuse or mitigate the discharge? **Yes.** The Board'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, Agoraphobia, Major Depressive Disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant is service connected by the VA for combat-related PTSD with secondary Agoraphobia and Major Depressive Disorder. Service connection establishes that the conditions existed during military service.

(3) Does the condition or experience actually excuse or mitigate the discharge? **No.** The Board's Medical Advisor applied liberal consideration and opined that the applicant is service connected by the VA for combat-related PTSD with secondary Agoraphobia and Major Depressive Disorder, which are typically a mitigating BH conditions for wrongful use of marijuana given the nexus between PTSD, Major Depressive Disorder, and self-medicating with substances. However, the applicant's wrongful use of marijuana occurred prior to the applicant being deployed, which was the index trauma for the PTSD with secondary Agoraphobia and Major Depressive Disorder. Therefore, the applicant's PTSD, Agoraphobia, and Major Depressive Disorder did not exist at the time of the marijuana use that led to the separation. There is no evidence that the applicant's BH conditions contributed to the basis of separation, so there is no mitigation.

(4) Does the condition or experience outweigh the discharge? **No.** After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the available evidence did not support a conclusion that the applicant's Post Traumatic Stress Disorder, Agoraphobia, Major Depressive Disorder outweighed the applicant's medically unmitigated illegal substance abuse offense.

b. Response to Contention(s):

(1) The applicant contends suffering from PTSD and the condition affected behavior, which led to the discharge. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Post Traumatic Stress

Disorder, Agoraphobia, and Major Depressive Disorder outweighed the applicant's medically unmitigated illegal substance abuse offense.

(2) The applicant contends the applicant did not receive any help for PTSD and the applicant self-enrolled in the ASAP, but was not allowed to complete the program. The Board liberally considered this contention but determined that the available evidence did not support a conclusion that the applicant's Post Traumatic Stress Disorder, Agoraphobia, and Major Depressive Disorder outweighed the applicant's medically unmitigated illegal substance abuse offense.

(3) The applicant contends good service, including a combat tour in Afghanistan. The Board considered the applicant's combat service and factored it into the decision to upgrade the applicant's discharge.

(4) The applicant contends an upgrade would allow educational benefits through the GI Bill. The Board considered this contention and determined that eligibility for Veteran's benefits, to include educational benefits under the Post-9/11 or Montgomery GI Bill, healthcare or VA loans, do not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

(5) The applicant contends attaining a bachelor's degree, pursuing a master's degree, and being sober for five years. The Board considered the applicant's post-service accomplishments as well as the applicant's history of homeless and credited this to the applicant in the decision to upgrade the discharge.

c. The Board determined the discharge is inequitable based on the applicant's combat service, post-service accomplishments, and history of homelessness. 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 based on the applicant's combat service, post-service accomplishments, and history of homelessness. 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.

**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**

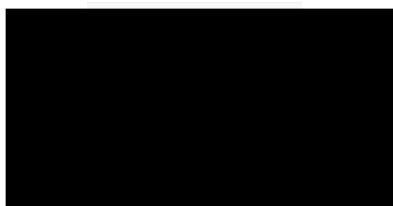
**AR20210000698**

**10. BOARD ACTION DIRECTED:**

- a. Issue a New DD-214: Yes
- 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:**

10/24/2024



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