

1. Applicant's Name: [REDACTED]

a. Application Date: 26 April 2021

b. Date Received: 26 April 2021

c. Counsel: [REDACTED]
[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 requests a narrative reason change to Secretarial Authority.

The applicant seeks relief contending, in effect, serving in the Army for eight years, deploying to Afghanistan on two occasions as a combat medic, witnessing casualties and saving lives. While in Afghanistan between 2007 and 2008, the applicant flew over 350 missions as a UH-60 flight medic and volunteered for another tour in 2009, flying over 200 medical evacuation missions. The applicant is a wounded warrior who suffers from the effects of combat stress. Despite the applicant's heroic service, the applicant was discharged from the Army on 7 July 2012 for failing to report the criminal activity of the applicant's spouse. The applicant's spouse was convicted by court-martial for various offenses, including violating Army regulation by ingesting and selling bath salts and Spice. The sentence consisted of confinement for 30 months and a bad-conduct discharge. The evidence established the applicant's spouse was abusive. Despite the extenuating and mitigating circumstances of abuse, mental health problems, and previous outstanding performance, the Rear Detachment Commander approved the applicant's discharge for serious misconduct, circumstances which justified retention. The gravamen of the applicant's misconduct was wrongfully failing to report the production, possession, and use of spice between 18 and 31 October 2010. The applicant received a Field Grade Article 15 for failing to report the applicant's spouse. An administrative separation board recommended discharge 14 months later. At the time, many of the Soldiers and leaders the applicant served with in Afghanistan were either deployed or reassigned. The witnesses who recommended discharge knew little of the applicant's duty performance. Following the deployments, the applicant suffered from significant medical issues, but the medical issues paled in comparison to the applicant's emotional and mental health challenges. The applicant had to cope with marital problems, including intense domestic violence. The applicant's spouse suffered from combat stress and began resorting to spice and bath salts. The applicant had no knowledge of the applicant's spouse's illegal activity at the time. The applicant loved the applicant's spouse and urged the spouse to get help. The applicant delayed reporting the spouse because the spouse was unstable, abusive, and threatening.

b. Board Type and Decision: In a records review conducted on 24 June 2025, and by a 5-0 vote, the Board found the discharge inequitable based on the applicant's length and quality of service (to include combat service) outweighing the Misconduct (Serious Offense) narrative reason for separation. 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.

*Please see Section 9 of this document for more details regarding the Board's decision.
Board member names available upon request.*

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Misconduct (Serious Offense) / AR 635-200, Paragraph 14-12c / JKQ / RE-3 / Honorable

b. Date of Discharge: 2 July 2012

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 6 January 2012

(2) Basis for Separation: The applicant was informed of the following reasons: The applicant wrongfully failed to report the production, possession, and use of Spice between 18 and 31 October 2010.

(3) Recommended Characterization: Under Other Than Honorable Conditions

(4) Legal Consultation Date: 10 January 2012

(5) Administrative Separation Board: On 10 January 2012, the applicant requested personal appearance before an administrative separation board.

On 7 March 2012, the administrative separation board convened. The board recommended the applicant's discharge with characterization of service of under other than honorable conditions.

On 5 April 2012, the separation authority approved the findings and recommendations of the administrative separation board.

(6) Separation Decision Date / Characterization: 5 April 2012 / Under Other Than Honorable Conditions

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 6 February 2007 / 6 years

b. Age at Enlistment / Education / GT Score: 23 / Associate's Degree / 117

c. Highest Grade Achieved / MOS / Total Service: E-5 / 68W20, Health Care Specialist / 8 years, 5 months, 13 days

d. Prior Service / Characterizations: RA, 20 January 2004 – 5 February 2007 / HD

e. Overseas Service / Combat Service: Germany, SWA / Afghanistan (9 January 2007 – 8 February 2008, 23 April 2009 – 31 March 2010)

f. Awards and Decorations: AM-3, JMUA, MUC, AGCM-2, NDSM, ACM-2CS, GWOTSM, NCOPDR, ASR, OSR-3, NATOMDL, CMB

g. Performance Ratings: 1 September 2006 – 31 August 2007 / Fully Capable
1 September 2007 – 13 May 2008 / Marginal
1 April 2009 – 31 March 2010 / Among the Best
1 April 2010 – 13 July 2010 / Among the Best
14 July 2010 – 7 February 2011 / Fully Capable

8 February 2011 – 7 February 2012 / Fully Capable

h. Disciplinary Action(s) / Evidentiary Record: Field Grade Article 15, 29 July 2008, for:

On two occasions violating a lawful general regulation by wrongfully promoting inappropriate relationships with subordinates, and wrongfully failing to stop underage Soldier from consuming alcohol (18 March and 11 May 2008);

Being derelict in the performance of the applicant's duties by negligently failing to stop underage alcohol consumption (11 May 2008);

With intent to deceive, signing an official sworn statement (12 May 2008); and

Attending a party at Staff Sergeant E. G.'s house with subordinate Soldiers (11 May 2008).

The punishment consisted of a reduction to E-4 and forfeiture of \$1024 pay (suspended).

Memorandum, 29 March 2012, reflects the Chief, Administrative Law reviewed the administrative separation boards proceedings and concluded the board procedures complied with the provisions of Army Regulation 635-200 and Army Regulation 15-6. While not a substantial defect, the packet did not include the findings and recommendations worksheet, which the recorder reported as lost. The defense counsel's claim there was insufficient evidence the applicant's conduct was a serious offense and the applicant's risk of personal safety should the applicant complied with the regulation and reported the applicant's spouse were without merit. The applicant, in accordance with 82d Airborne Division Regulation 190-2, paragraph 4c, which states noncommissioned officers had an affirmative duty to stop the activity and report Soldiers they witness using or possessing illegal drugs.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: Duke Medicine medical records from 4 October to 30 December 2013, reflecting the applicant had a past medical history diagnosis of an abnormal pap smear in 2008, PTSD, insomnia, and an abdominal cyst, calcified. The applicant was diagnosed with PTSD while in the Army and was on medication for several years.

(2) AMHRR Listed: None

The ARBA's medical advisor reviewed DoD and VA medical records and not solely those documents listed in 4j(1) and (2) above.

5. APPLICANT-PROVIDED EVIDENCE: Application for the Review of Discharge; Certificate of Release or Discharge from Active Duty, with continuation sheet; Legal Brief with all listed enclosures 1 through 9; applicant's affidavit; five Noncommissioned Officer Evaluation Reports; Anger Management and Prime for Life certificates; military awards; Individual Flight Record and Flight Certificates - Army; Dean's List; Service School Academic Evaluation Report; medical records; and 16 third party character references.

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. Manual for Courts-Martial (MCM) is an executive order that details the rules for administering military justice. Rule 504, Husband-wife privilege, in effect at the time, provides: (a) Spousal incapacity is taken generally from *Trammel v. United States*, 445 U.S. 40 (1980). The witness' spouse may choose to testify or not to testify as a witness' spouse. (b) Confidential communications made during marriage. A spouse may prevent disclosure of any confidential spousal communication made during marriage even though the parties are no longer married at the time disclosure is desired. The accused may always require the confidential communication be disclosed.

d. 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.

e. 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) Chapter 14 establishes policy and prescribes procedures for separating members for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, and commission of a serious offense, to include abuse of illegal drugs, convictions by civil authorities and desertion or being absent without leave. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed.

(5) Paragraph 14-2c, 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.

(6) 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.

(7) Paragraph 14-12c prescribes a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

f. 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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 12c, misconduct (serious offense).

g. 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 waivable and nonwaivable separations. Table 3-1 defines reentry eligibility (RE) codes. RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. Eligibility: Ineligible unless a waiver is granted.

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 the narrative reason for the discharge needs changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12c, AR 635-200 with an honorable discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Misconduct (Serious Offense)," and the separation code is "JKQ." Army Regulation 635-8 (Separation Processing and Documents) governs the 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 combat-related PTSD, significant medical issues, and domestic violence / marital issues, affected the applicant's behavior, which led to the discharge. The applicant submitted medical records reflecting the applicant had a past medical history diagnoses of an abnormal pap smear in 2008, PTSD, insomnia, and an abdominal cyst, calcified. The applicant was diagnosed with PTSD while in the Army and was on medication for several years. The applicant's AMHRR is void of a mental status evaluation.

The applicant contends the chain of command ignored the fact the applicant was trying to preserve their marriage and was fearful of the applicant's life. There is no evidence in the applicant's AMHRR the applicant ever sought assistance before committing the misconduct, which led to the separation action under review. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends the applicant was discharged because the applicant failed to report the production, possession, and use of spice; however, the applicant could not testify against their spouse and all communications between them were privileged.

The applicant contends good service, including two combat tours. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The third-party statements provided with the application speak highly of the applicant and recognize the applicant's good military service.

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, based on the Board Medical Advisor's opine, the applicant's DOD and VA health records, the applicant's statement, and/or civilian provider documentation, the applicant has the following potentially mitigating diagnoses/experiences: PTSD, Adjustment Disorder with Anxiety, and IPV.

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board, based on the Board Medical Advisor's opine, found the applicant is 70 percent service connected for PTSD and both PTSD and the Adjustment Disorder were related to service. The Board also found that the IPV occurred during service.

(3) Does the condition or experience excuse or mitigate the discharge? **No.** The Board determined, based on the Board Medical Advisor's opine, that the applicant's behavioral health conditions do not mitigate the discharge. The applicant's Adjustment Disorder with Anxiety is subsumed by the applicant's Post Traumatic Stress Disorder. The applicant's offense of failing to report the possession, production, and use of spice is not mitigated as it is not natural sequela of PTSD and the condition did not impair the applicant's ability to differentiate between right and wrong and adhere to the right. The applicant asserts that the applicant delayed reporting the spouse because the spouse was unstable, abusive, threatening. The records reflect at least one instance of physical abuse, resulting in a restraining order. However, the applicant's stated reasoning notwithstanding, there remains no evidence in the records that the applicant was unable to differentiate between right and wrong and adhere to the right.

(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, Adjustment Disorder, and/or IPV outweighed the medically unmitigated separating offense of violating policy by failing to report the production, possession, and use of an illegal substance.

b. Response to Contention(s):

(1) The applicant contends the narrative reason for the discharge should be changed to Secretarial Authority. 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. The Board determined a change to Secretarial Authority (SA) is not warranted based on the board medical advisor's opine that neither the applicant's behavioral health conditions or IPV affect the ability to determine right from wrong and act in accordance with the right. Additionally, SA is not warranted despite the strong record of service as the applicant was involuntarily separated for misconduct and the service record does not fully excuse responsibility for the misconduct.

(2) The applicant contends combat-related PTSD, significant medical issues, and domestic violence / marital issues affected the applicant's behavior, which led to the discharge. The Board liberally considered this contention and determined that the available evidence did

not support a conclusion that the applicant's Post Traumatic Stress Disorder, IPV, and/or Adjustment Disorder outweighed the medically unmitigated offense of violating policy by failing to report the production, possession, and use of an illegal substance.

(3) The applicant contends the chain of command ignored the fact the applicant was trying to preserve their marriage and was fearful of the applicant's life. The Board liberally considered this contention and determined that the applicant's Intimate Partner Violence (IPV) victimization did not outweigh the separating offense of violating policy by failing to report the production, possession, and use of an illegal substance because. The applicant was able to determine right from wrong and is responsible for the misconduct that led to the separation.

(4) The applicant contends the applicant was discharged because the applicant failed to report the production, possession, and use of spice; however, the applicant could not testify against their spouse and all communications between them were privileged. The Board considered this contention and found insufficient information concerning the separation action in the applicant's AMHRR or applicant-provided evidence to decide that a legal error occurred. The Board found that the current evidentiary record did not reflect substantial prejudice as the applicant was represented by counsel and was provided an opportunity to appear before an administrative board.

(5) The applicant contends good service, including two combat tours. The Board considered the applicant's eight years of service, including two combat tours in Afghanistan and numerous awards received, and determined that the applicant's record does warrant a change to the narrative reason for separation.

c. The Board, based on the applicant's length and quality of service, to include combat service, outweighing the applicant's Misconduct (Serious Offense) narrative reason for separation. 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 applicant may request a personal appearance hearing to address further issues before the Board. The applicant is responsible for satisfying the burden of proof and providing documents or other evidence sufficient to support the applicant's contention(s) that the discharge was improper or inequitable

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 the applicant's strong record of service. 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 given the BH conditions and service connection. The current code is consistent with the procedural and substantive requirements of the regulation.

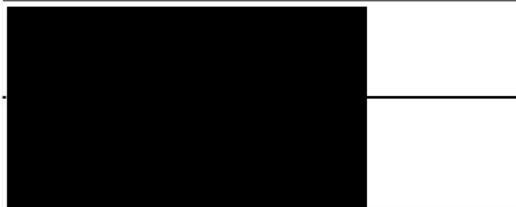
ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE
AR20210000702

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: No Change
- e. Change Authority to: AR 635-200

Authenticating Official:

7/25/2025



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