

**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 general (under honorable conditions). The applicant requests an upgrade to honorable.

The applicant seeks relief contending, in effect, the applicant was wrongfully discharged because they were suffering from PTSD; currently receives 70 percent disability from VA. The applicant deployed to Afghanistan in 2004 for a year. During the deployment, the base was under constant enemy attack and the applicant was awarded the Combat Action Badge and orders to wear a Special Forces Combat Patch, a great honor. After returning from deployment, the applicant was experiencing early signs of PTSD, which the applicant was not aware of at the time. In 2006, the unit was set to deploy again this time to Iraq. Prior to the deployment, the applicant was under stress and rising PTSD. The applicant decided to self-mediate by using marijuana. After a failed urinalysis, the applicant was informed their leave was to be terminated prior to a yearlong deployment to Iraq. The applicant made the poor decision of taking previously authorized leave as scheduled and was charged AWOL upon their return. Prior to taking matters into their own hands, the applicant was a stellar Soldier, receiving numerous awards and recognition since their enlistment in the Army. The applicant was not eligible for the GI Bill; however, still completed a bachelor's degree on grants and loans. The applicant is trying to right their past so they can move forward with being a disabled veteran and share their entire Army legacy instead of the mistakes they made in one month.

**b. Board Type and Decision:** In a records review conducted on 12 September 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's PTSD outweighing the separating offenses of AWOL and illegal substance abuse. 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. Accordingly, the narrative reason for separation changed to Misconduct (Minor Infractions) with a corresponding separation code of JKN and reentry code of 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, Chapter 14-12c (2) / JKK / RE-4 / General (Under Honorable Conditions)

**b. Date of Discharge:** 23 August 2006**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 18 July 2006

**(2) Basis for Separation:** The applicant was informed of the following reasons: On or about 5 June 2006, without authority, absent oneself from the unit, and did remain so absent until on or about 19 June 2006; and between on or about 7 March and 7 April 2006, wrongfully used Marijuana, a controlled substance.

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

**(4) Legal Consultation Date:** In an undated memorandum, the applicant waived legal counsel.

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

**(6) Separation Decision Date / Characterization:** 28 July 2006 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 4 November 2003 / 4 years

**b. Age at Enlistment / Education / GT Score:** 18 / High School Graduate / 113

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 13B10, Cannon Crewmember / 2 years, 9 months, 6 days

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

**e. Overseas Service / Combat Service:** Hawaii, SWA / Afghanistan (28 March 2004 – 20 March 2005)

**f. Awards and Decorations:** ARCOM, AAM, NDSM, GWOTEM, GWOTSM, ASR, OSR, CAB, OSB-2

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Electronic Copy of DD Form 2624, 7 April 2006, reflects the applicant tested positive for THC 137 (marijuana), during an Inspection Random Other (IR) urinalysis testing, conducted on 7 April 2006.

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

From Present for Duty (PDY) to Absent Without Leave (AWOL), effective 5 June 2006; and, From AWOL to PDY, effective 19 June 2006.

FG Article 15, 11 July 2006, between on or about 7 March and 7 April 2006, wrongfully use marijuana; and on or about 5 June 2006, without authority, absent oneself from the unit and did remain so absent until on or about 19 June 2006. The punishment consisted of a reduction to E-1; forfeiture of \$636 pay per month for two months; and extra duty and restriction for 45 days (suspended).

Two Developmental Counseling Forms, for positive urinalysis and notification of chapter procedures.

**i. Lost Time / Mode of Return:** 13 days (AWOL, 5 June 2006 – 18 June 2006) / Returned to Military Control

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

**(1) Applicant provided:** Department of Veteran Affairs Rating Decision, 15 August 2013, reflects a diagnosis.

**(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; self-authored statement; VA Rating Decision; Permanent Order Number E032-055; Memorandum Statement of Wartime Service; Certificate of Achievement; Memorandum for Record Additional Duty Appointment; three attorney letters.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant was not eligible for the GI Bill; however, still completed a bachelor's degree on grants and loans.

**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) 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.

(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 14-3 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 applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

The applicant contends good service, including a combat tour and being awarded the Combat Action Badge and orders to wear a Special Forces Combat Patch. Prior to taking matters into their own hands, the applicant was a stellar Soldier, receiving numerous awards and recognition since their enlistment in the Army. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends suffering from PTSD after a deployment to Afghanistan and being granted 70 percent service-connected disability by the VA. The applicant provided Department of Veteran Affairs Rating Decision, 15 August 2013, which reflects a diagnosis. The AMHRR does not contain a Mental Status Evaluation (MSE).

The applicant contends in 2006, the unit was set to deploy again this time to Iraq. Prior to the deployment, the applicant was under stress and rising PTSD. The applicant decided to self-mediate by using marijuana. After a failed urinalysis, the applicant was informed their leave was to be terminated prior to a yearlong deployment to Iraq. The applicant made the poor decision of taking previously authorized leave as scheduled and was charged AWOL upon their return.

There is no evidence in the AMHRR the applicant ever sought assistance before committing the misconduct, which led to the separation action under review.

The applicant contends not being eligible for the GI Bill; however, still completed a bachelor's degree on grants and loans. 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 found that, based on the Board's Medical Advisor's opine, and a review of 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.

**(2)** Did the condition exist, or experience occur during military service? **Yes.** The Board found that, based on the Board's Medical Advisor's opine, the applicant is diagnosed and service connected by the VA for PTSD. Service connection establishes that the PTSD existed during military service.

**(3)** Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board applied liberal consideration, to include considering the Board's Medical Advisor's opine, and determined that the applicant is diagnosed and service connected by the VA for PTSD. Given the nexus between PTSD, avoidance, and self-medicating with substances, the applicant's PTSD more likely than not contributed to the AWOLs and wrongful use of marijuana that led to the separation. As such, the applicant's PTSD mitigates the misconduct in the basis of separation.

**(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 PTSD outweighed the separating offenses of AWOL and illegal substance abuse.

**b.** Response to Contention(s):

**(1)** The applicant contends suffering from PTSD after a deployment to Afghanistan and being granted 70 percent service-connected disability by the VA. The Board liberally considered this contention, found it valid, and determined the applicant's PTSD outweighed the separating offenses of AWOL and illegal substance abuse.

**(2)** The applicant contends good service, including a combat tour and being awarded the Combat Action Badge as well as orders to wear a Special Forces Combat Patch. Prior to taking matters into their own hands, the applicant was a stellar Soldier, receiving numerous awards and recognition since their enlistment in the Army. The Board considered the totality of the applicant's service record but ultimately did not address it in detail after determining that the applicant's PTSD outweighed the separating offenses of AWOL and illegal substance abuse.

(3) The applicant contends in 2006, the unit was set to deploy to Iraq. Prior to the deployment, the applicant was under stress and rising PTSD. The applicant decided to self-mediate by using marijuana. After a failed urinalysis, the applicant was informed their leave was to be terminated prior to a yearlong deployment to Iraq. The applicant made the poor decision of taking previously authorized leave as scheduled and was charged AWOL upon their return. The Board liberally considered this contention and determined that it was valid due to the applicant's PTSD outweighing the separating offenses of AWOL and illegal substance abuse.

(4) The applicant contends not being eligible for the GI Bill but still completed a bachelor's degree on grants and loans. The Board considered this contention but ultimately did not address it in detail after determining that the applicant's PTSD outweighed the separating offenses of AWOL and illegal substance abuse. Additionally, VA benefits do not fall within the scope of this board. The applicant should consult with a local VA office for further assistance.

c. The Board determined the discharge is inequitable based on the applicant's PTSD outweighing the applicant's offenses of AWOL and illegal substance abuse. 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. Accordingly, the narrative reason for separation changed to Misconduct (Minor Infractions) with a corresponding separation code of JKN and reentry code of RE-3.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's PTSD outweighed the separating offenses of AWOL and illegal substance abuse. 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 based on the new SPD and PTSD diagnosis.

**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:**

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

**AR20210000783**



**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