

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, experiencing injustice as a veteran of the Iraq War. The applicant's service to the country during the war was exemplary, and the applicant's discharge does not accurately reflect their contributions. The applicant was not given a fair opportunity to contest the discharge, nor were the applicant's medical and psychological conditions considered. The applicant continues to serve the country through their work with the Department of Defense (DoD) and the Department of State (DoS) in various information technology and cybersecurity roles. The applicant achieved both various federally approved and professional certifications, including being currently enrolled in the Master's degree program in cybersecurity, and has obtained Federal Aviation Administration (FAA) licenses. These achievements demonstrate the applicant's commitment to personal and professional development and their ability to serve and support the U.S. government in a meaningful way. The applicant has been a dedicated employee and has been recognized for exceptional performance and contributions to the DoD and DoS. The applicant has been suffering from post-traumatic stress disorder (PTSD) because of their service in the war, which may have contributed to their past conduct, which led to the general discharge. The applicant believes an upgrade will rectify the injustice the applicant has experienced and acknowledge their contributions and sacrifices. The applicant respectfully requests their service, achievements, and medical condition be considered. The applicant would be grateful for the opportunity to present any additional information or evidence helpful in the decision. The applicant further details the contentions in the applications.

b. **Board Type and Decision:** In a records review conducted on 10 September 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's PTSD outweighing the applicant's illegal substance abuse offense. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed the separation authority to AR 635-200 paragraph 14-12a and the narrative reason for separation to Misconduct (Minor Infractions) (corresponding separation code of JKN). The Board determined the reentry code is proper and equitable and voted not to change it.

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

3. DISCHARGE DETAILS:

a. **Reason / Authority / Codes / Characterization:** Misconduct (Drug Abuse) / AR 635-200, Paragraph 14-12c (2) / JKK / RE-4 / General (Under Honorable Conditions)

b. **Date of Discharge:** 24 May 2007

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 8 May 2007

(2) **Basis for Separation:** Under the provisions of AR 635-200, Chapter 14-12c, Commission of a Serious Offense, the applicant was informed of the following reasons: The applicant wrongfully used marijuana.

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

(4) **Legal Consultation Date:** 11 May 2007

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

(6) **Separation Decision Date / Characterization:** Undated / General (Under Honorable Conditions) / The separation authority approved the applicant's separation under the provisions of AR 635-200, Chapter 14-12c, Commission of a Serious Offense.

4. SERVICE DETAILS:

a. **Date / Period of Enlistment:** 18 December 2005 / 6 years

b. **Age at Enlistment / Education / GT Score:** 20 / HS Graduate / 97

c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 92F10, Petroleum Supply Specialist / 5 years, 2 months, 18 days

d. **Prior Service / Characterizations:** USAR, 7 March 2002 – 26 January 2004 / NA
IADT, 24 May 2002 – 2 August 2002 / NA
(Concurrent Service)
IADT, 4 June 2003 – 19 August 2003 / UNC
(Concurrent Service)
RA, 27 January 2004 – 17 December 2005 / HD

e. **Overseas Service / Combat Service:** SWA / Iraq (11 January 2005 – 3 January 2006)

f. **Awards and Decorations:** AAM-3, NDSM, GWOTSM, ICM-BSS, ASR

g. **Performance Ratings:** NA

h. **Disciplinary Action(s) / Evidentiary Record:** Electronic Copy of DD Form 2624, 29 January 2007, reflects the applicant tested positive for THC 71 (marijuana), during an Inspection Unit (IU) urinalysis testing, conducted on 18 January 2007.

Developmental Counseling Form, 1 February 2007, for testing positive for THC and being referred to the Criminal Investigation Division and/or Military Police Investigators for interviewing and enrollment in the Army Substance Abuse Program.

Commander's Report, undated, reflects the applicant received a Summary Court-Martial for wrongful use of marijuana. The punishment consisted of a reduction to E-1; forfeiture of \$650 pay; and hard labor without confinement for 45 days.

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

j. Behavioral Health Condition(s):

(1) Applicant provided: Bureau of Medical Services Medical History and Examination for Individuals Age 12 and Older, 18 January 2023, reflecting the medical examiner noted mild hearing loss; mild anxiety; and a former smoker.

(2) AMHRR Listed: Report of Mental Status Evaluation, 8 March 2007, reflects the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant could understand and participate in administrative proceedings; could appreciate the difference between right and wrong; and met medical retention requirements. The applicant was diagnosed with alcohol abuse and cannabis related disorder.

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 Correction of Military Record; two Certificates of Release or Discharge from Active Duty; Correction to DD Form 214; Application for the Review of Discharge; VA Statement in Support of Claim; third party VA Statement in Support of Claim; Medical History and Examination for Individuals Age 12 and Older; and multiple training certificates and/or certifications.

6. POST SERVICE ACCOMPLISHMENTS: The applicant was recognized for their exceptional performance and contributions while working with the Department of Defense and the Department of the State in information technology and cybersecurity roles, and is enrolled in the Masters degree program in cybersecurity.

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 PTSD affected behavior, which led to the discharge. The applicant provided medical documents reflecting the medical examiner noted mild anxiety. The applicant's AMHRR shows the applicant underwent a mental status evaluation (MSE) on 8 March 2007, which indicates the applicant was mentally responsible and was able to recognize right from wrong. The applicant was diagnosed with alcohol abuse and cannabis related disorder. The MSE was considered by the separation authority.

The applicant contends not being given a fair opportunity to contest the discharge and the applicant's medical and psychological conditions were not considered. The applicant's AMHRR reflects the applicant was provided the opportunity to consult with counsel and present rebuttal matters. The record does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends good service, including a combat tour. 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 medical benefits and 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 an upgrade of the discharge will allow the applicant to obtain better employment. The Board does not grant relief to gain employment or enhance employment opportunities.

The applicant contends being recognized for their exceptional performance and contributions while working with the Department of Defense and the Department of the State in information technology and cybersecurity roles and being enrolled in the Master's degree program in cybersecurity. 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.

The third party statement provided with the application speaks highly of the applicant. It recognizes the applicant's good military service and good conduct after leaving the Army.

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, the applicant's statement, and/or civilian provider documentation and found that the applicant has the following potentially mitigating diagnoses: the applicant was diagnosed in-service with Adjustment Disorder with Depressed Mood prior to deployment. The applicant is post-service connected for combat related PTSD.

(2) Did the condition exist, or experience occur during military service? **Yes.** The applicant was diagnosed in-service with Adjustment Disorder with Depressed Mood prior to deployment.

(3) Does the condition or experience excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that given the trauma occurred prior to the basis and nexus between trauma and substance use, the misconduct is mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** After applying liberal consideration to the evidence, including the Board Medical Advisor's opine, the Board determined that the applicant's PTSD outweighed the applicant's illegal substance abuse offense.

b. Response to Contention(s):

(1) The applicant contends PTSD affected behavior, which led to the discharge. The Board liberally considered this contention and found it supported by the evidentiary record, resulting in a discharge upgrade.

(2) The applicant contends not being given a fair opportunity to contest the discharge and the applicant's medical and psychological conditions were not considered. The Board considered this contention during proceedings, but ultimately did not address it in detail due to an upgrade being granted based on medical mitigation of the separation misconduct.

(3) The applicant contends good service, including a combat tour. The Board considered this contention during proceedings, but ultimately did not address it in detail due to an upgrade being granted based on medical mitigation of the separation misconduct.

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

(6) The applicant contends being recognized for their exceptional performance and contributions while working with the Department of Defense and the Department of the State in information technology and cybersecurity roles and being enrolled in the Master's degree program in cybersecurity. The Board noted the applicant's post-service accomplishments, but ultimately did not address them in detail due to an upgrade being granted based on medical mitigation of the separation misconduct.

c. The Board determined the discharge is inequitable based on the applicant's PTSD outweighing the applicant's illegal substance abuse offense. 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. The Board determined the reentry code is proper and equitable and voted not to change it.

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 applicant's illegal substance abuse offense. 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 not change based on the behavioral health conditions and medical opine. The current code is consistent with the procedural and substantive requirements of the regulation.

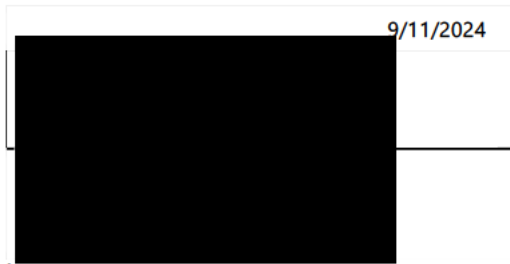
ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210000930

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

Authenticating Official:



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