

**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, accomplishing general and personal life goals while enlisted in the Army. The applicant was honor graduate in basic training, graduated airborne school, and received multiple certifications on various equipment.

The applicant also earned two Army Achievement Awards along with being awarded Canadian Airborne Wings for training with another country. The applicant along with other team members, was selected to test new equipment which was not released to the rest of the military. There were several things going on with the applicant, and the applicant thought they could handle it all. While on track to jumpmaster and ranger school, the applicant made a huge mistake.

The applicant was discharged for using marijuana. The cause of the use of marijuana stemmed from depression which was building from day to day. The applicant looked for guidance from the superiors, and was left with no direction, guidance, or assistance with the problems. The applicant was left with turning to the fellow peers, who were going through the same issues the applicant was having. The stress the applicant already had was added when the applicant was injured during training and from the parent's health issues. The applicant's life became drastically affected. The applicant did not receive any assistance from the unit and turned to marijuana to escape from everything. The day after using marijuana, the applicant realized what they had done and immediately went to the superior and was enrolled into the Army Substance Abuse Program (ASAP). While enrolled in ASAP, the applicant was placed in a therapy group with other Soldiers who had similar problems and issues as the applicant. They had group discussions, and the counselor would speak briefly throughout the session.

The applicant was told by the counselor while enrolled in ASAP, they would be subjected to two urinalyses a month. When the first two tests were not administered, and all the stress, the applicant believed they could use marijuana again and not be subjected to a urinalysis.

The applicant realizes the decision they made, was the worse decision of their life. The applicant was in a bad state of mind and not able to make the right choices for their self, and when the applicant turned for help, the Army did not help the applicant the correct way, which influenced the choices in a negative way. Since being discharged, the applicant has been working on their civilian life and provided a character statement from the current service manager for the Board's review. The applicant has learned no matter how tough the going gets, nothing in this world worth anything is ever given away. One must earn it through hard work, commitment, and persistence.

**b. Board Type and Decision:** In a records review conducted on 18 June 2024, and by a 4-1 vote, the Board determined the discharge is inequitable based on the applicant's length and quality of service and applicant's one time drug use outweighing the basis of separation (applicant's wrongful use of marijuana basis). Therefore, the Board voted to grant relief in the

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

**AR20210001073**

form of an upgrade of the characterization of service to Honorable, changed to the separation authority to AR 635-200, paragraph 14-12a. Accordingly, the narrative reason for separation was changed 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, Chapter 14-12c (2) / JKK / RE-4 / General (Under Honorable Conditions)

**b. Date of Discharge:** 26 March 2014

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 6 March 2014

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

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

**(4) Legal Consultation Date:** On 6 March 2014, the applicant waived legal counsel.

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

**(6) Separation Decision Date / Characterization:** 10 March 2014 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 9 January 2012

**b. Age at Enlistment / Education / GT Score:** 21 / High School Graduate / 102

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 13F1P, Fire Support Specialist / 2 years, 2 months, 18 days

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

**e. Overseas Service / Combat Service:** None

**f. Awards and Decorations:** The DD Form 214 reflects no awards; however, the applicant provided two Army Achievement Medal certificates.

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Orders 072-0255, 13 March 2014, reflect the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 26 March 2014 from the Regular Army.

The applicant's DD Form 214 (Certificate of Release or Discharge from Active Duty), reflects the applicant had not completed the first full term of service. The applicant was discharged under the authority of AR 635-200, paragraph 14-12c(2), with a narrative reason of Misconduct (Drug Abuse). The DD Form 214 was authenticated with the applicant's electronic signature.

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

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

**(1) Applicant provided:** None

**(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:** DD Form 293; self-authored statement; third-party letter; DA Form 638; two AAM certificates; DD Form 214.

**6. POST SERVICE ACCOMPLISHMENTS:** The applicant is employed, has quickly advanced and has had several promotions.

**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, which included being honor graduate in basic training, graduating airborne school, and receiving multiple certifications on various equipment. The applicant also earned two Army Achievement Medals and was awarded Canadian Airborne Wings for training with another country. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends using marijuana due to depression which was building from day to day. The applicant looked for guidance from the superiors, and was left with no direction, guidance, or assistance with the problems. The stress the applicant already had was added when the applicant was injured during training and from the parent's health issues. The applicant's life became drastically affected. The applicant did not receive any assistance from the unit and turned to marijuana to escape from everything. The applicant did not submit any evidence, other than the applicant's statement, to support the contention the discharge resulted from any medical condition. The applicant stated they entered ASAP as soon as reporting to the command the use of marijuana. The applicant's AMHRR contains no documentation of medical diagnosis. The AMHRR does not contain a mental status evaluation (MSE). The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant is employed, has quickly advanced and has received several promotions. The third-party statement provided with the application is from the service manager at the applicant's job and reflects the applicant's work ethic and several promotions the applicant has received since being employed. 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: The applicant asserts the misconduct was related to Depression.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant asserts depression during 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 a review of the available records was void of a potentially mitigated diagnosis. The applicant asserts applicant's misconduct was related to depression, but records are void of a depressive disorder diagnosis. The applicant's self-statement during an ASAP encounter that the applicant was feeling sad and low is not sufficient to establish a mood disorder. The applicant did not have a condition that impaired applicant's ability to differentiate between right and wrong and adhere to the right. In absence of documentation or sufficient evidence supporting a depressive disorder, there is insufficient evidence to offer mitigation of the applicant misconduct.

(4) Does the condition or experience outweigh the discharge? **N/A.**

b. Response to Contention(s):

(1) The applicant contends good service, which included being Honor graduate in basic training, graduating airborne school, and receiving multiple certifications on various equipment. The applicant also earned two Army Achievement Medals along with being awarded Canadian Airborne Wings for training with another country. The Board considered this contention and determined the discharge is inequitable and warrants an upgrade based on the applicant's length and quality of service and applicant's one time drug use outweighing the applicant's wrongful marijuana use basis for separation.

(2) The applicant contends using marijuana due to depression which was building from day to day. The applicant looked for guidance from the superiors, and was left with no direction, guidance, or assistance with the problems. The stress the applicant already had was added when the applicant was injured during training and from the parent's health issues. The applicant's life became drastically affected. The applicant did not receive any assistance from the unit and turned to marijuana to escape from everything. The Board considered this but

based-on the applicant's medical file the BMA did not find any substantiating evidence to mitigate the misconduct. Regardless, the Board voted to upgrade based on length, quality of service, and the one-time drug use outweighing the basis of separation.

(3) The applicant is employed, has quickly advanced and has received several promotions. The Board did not consider this after granting an upgrade based on length, quality of service and the one isolated incident of marijuana outweighing the basis of separation.

c. The Board determined the discharge is inequitable based on the applicant's length and quality of service and applicant's one time drug use outweighing the applicant's wrongful marijuana use basis for separation. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable, changed to the separation authority to AR 635-200, paragraph 14-12a. Accordingly, the narrative reason for separation was changed to Misconduct (Minor Infractions), with a corresponding separation code of JKN, and the reentry code to RE-3. However, 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 to change the applicant's characterization of service to Honorable because the applicant's length and quality of service and applicant's one time drug use outweighing the applicant's wrongful marijuana use basis for separation. 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.

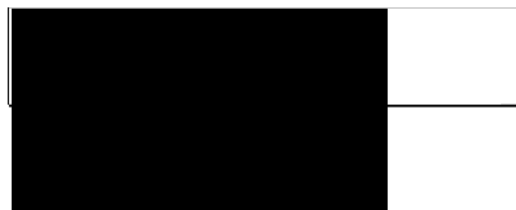
(3) The Board voted to change the RE code to RE-3.

**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, paragraph 14-12a

**Authenticating Official:**

10/8/2024



# ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

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**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