

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, growing into a more responsible person since the discharge from the Army. The choices the applicant made were wrong, but the applicant believes the applicant should be given a second chance by upgrading the applicant's characterization. The applicant received 100 percent disability for major depression. The applicant is attending Independence University for graphic design and has been working to become a better person. If the applicant could go back and change the mistakes, the applicant would. The applicant is not a bad person, just made several bad choices, which the applicant regrets to this day. The applicant will not allow the choices to affect the future and states everyone has made wrong decisions in life, but it is up to the individual not to make them again. The applicant will not make the wrong decision again and requests not to be held accountable for the past. The applicant is going to volunteer at the Young Men's Christian Association (YMCA) as a basketball coach. The applicant's record will support the applicant's case.

b. **Board Type and Decision:** In a records review conducted on 25 January 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Major Depression outweighing the applicant's AWOL and illegal drug abuse offenses. 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 the reentry code of 3 (RE-3).

Please see Section 9 of this document for more detail regarding the Board's decision.

Board member names available upon request.

3. DISCHARGE DETAILS:

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

b. **Date of Discharge:** 24 August 2011

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 3 August 2011

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant was absent without leave between 27 September 2010 and 5 January 2011, and wrongfully used cocaine between 7 and 16 May 2011.

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

(4) Legal Consultation Date: NIF

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 9 August 2011 / General (Under Honorable Conditions) / The separation authority approved the applicant's separation under the provisions of AR 635-200, Chapter 14-12c, Misconduct (Serious Offense).

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 4 November 2008 / 4 years

b. Age at Enlistment / Education / GT Score: 21 / 2 Years College / 87

c. Highest Grade Achieved / MOS / Total Service: E-3 / 92A10, Automated Logistical Specialist / 2 years, 21 days

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: None

f. Awards and Decorations: NDSM, ASR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record: Three Personnel Action forms, reflect the applicant's duty status changed as follows:

From "Present for Duty (PDY)," to "Absent Without Leave (AWOL)," effective 27 September 2010;

From "AWOL" to "Dropped From Rolls (DFR)," effective 26 October 2010; and

From "DFR," to "AWOL," effective 5 January 2011.

Military Police Report, 16 October 2010, reflects the applicant was investigated for Desertion (on post) when the applicant's unit reported the applicant AWOL as of 27 September 2010, DFR as of 26 October 2010, and PDY as of 5 January 2011, when the applicant surrendered to the unit.

Offer to Plead Guilty, 26 May 2011, reflects the applicant offered to plead guilty at a summary court-martial and to unconditionally waive any right to an administrative separation board even if the applicant was considered for separation under other than honorable conditions, contingent upon the convening authority taking actions specified in the Quantum portion of the agreement.

DD Form 2624, 2 June 2011, reflects the applicant was tested during an Inspection Unit (IU) urinalysis testing, conducted on 9 May 2011. The form does not reveal the results of the urinalysis test.

Report of Result of Trial reflects the applicant was tried in a Summary Court-Martial on 16 June 2011. The applicant was charged with one specification. The summary of offense, plea, and finding: Violation of Article 86, UCMJ, on 27 September 2010, being absent from the unit and

remaining absent until 5 January 2011; guilty, consistent with the plea. Sentence: Reduction to E-1; forfeiture \$978 pay; and confinement for 45 days.

i. Lost Time / Mode of Return: 272 days:

NIF, 18 February 2010 – 29 March 2010 / NIF

NIF, 7 April 2010 – 17 August 2010 / NIF

AWOL, 28 September 2010 – 4 January 2011 / Surrendered to the Unit

j. Behavioral Health Condition(s):

(1) Applicant provided: Department of Veterans Affairs Medical Center (VAMC) medical records, from 20 November 2013 to 23 February 2015, reflecting the applicant was diagnosed with major depressive affective disorder, recurrent episode, severe degree, without mention of psychotic behavior; post-traumatic stress disorder (PTSD); and global assessment functioning (GAF) of 53. The VAMC assessed the applicant as 100 percent service-connected disability for major depressive disorder (MDD).

(2) AMHRR Listed: Report of Mental Status Evaluation, 9 June 2011, reflects the applicant could understand and participate in administrative proceedings, but was unfit for duty because of a personality disorder or other mental conditions, which did not amount to a medical disability. The applicant was diagnosed with depressive disorder; alcohol abuse; cannabis abuse; cocaine abuse; borderline personality traits; and a history of childhood sexual abuse.

5. APPLICANT-PROVIDED EVIDENCE: DD Form 214; DD Form 293; Summary Court-Martial Proceedings; and VAMC medical documents.

6. POST SERVICE ACCOMPLISHMENTS: The applicant has grown into a more responsible person and is attending Independence University for graphic design.

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 the VA rated the applicant 100 percent disabled for depression. The applicant provided VAMC medical records, reflecting the applicant was diagnosed with MDD and PTSD. The VAMC assessed the applicant as 100 percent service-connected disabled for MDD. The applicant's AMHRR contains documentation, which supports a diagnosis of in-service depressive disorder; alcohol abuse; cannabis abuse; cocaine abuse; borderline personality traits; and a history of childhood sexual abuse. The record shows the applicant underwent a mental status evaluation (MSE) on 9 June 2011, which indicates the applicant could understand and participate in administrative proceedings but was determined to be unfit for duty because of a personality disorder or other mental conditions, which did not amount to a medical disability. The MSE was considered by the separation authority.

The applicant contends youth and immaturity affected the applicant's behavior at the time of the discharge. The AMHRR shows the applicant met entrance qualification standards to include age.

The applicant contends growing into a more responsible person and attending Independence University for graphic design. 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: Adjustment Disorder, Major Depression.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found that the applicant was diagnosed in service with an Adjustment Disorder and Major Depression. The VA has also service connected the applicant's Major Depression.

(3) Does the condition or experience excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the applicant was diagnosed in service with an Adjustment Disorder and Major Depression. The VA has also service connected the applicant's Major Depression. Given the nexus between Major Depression, avoidance, decreased motivation, and self-medicating with substances, the applicant's AWOL and cocaine use are mitigated. There is no evidence that the applicant's post-service diagnosis of PTSD existed during military service, but it is inconsequential given the full mitigation for the Major Depression.

(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 Major Depression outweighed the applicant's illegal drug use and AWOL offenses.

b. Response to Contention(s):

(1) The applicant contends the VA rated the applicant 100 percent disabled for depression. The Board liberally considered this contention and determined that the applicant's Major Depression outweighed the applicant's illegal drug abuse and AWOL offenses.

(2) The applicant contends youth and immaturity affected the applicant's behavior at the time of the discharge. The Board considered this contention during proceedings, but ultimately did not address it due to an upgrade being granted based on the applicant's Major Depression outweighing the applicant's illegal drug abuse and AWOL offenses.

(3) The applicant contends growing into a more responsible person and attending Independence University for graphic design. The Board considered this contention during proceedings, but ultimately did not address it due to an upgrade being granted based on the applicant's Major Depression outweighing the applicant's illegal drug abuse and AWOL offenses.

c. The Board determined the discharge is inequitable based on the applicant's Major Depression outweighing the applicant's AWOL and illegal drug abuse offenses. 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 the reentry code of 3.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Major Depression outweighed the applicant's illegal drug abuse and AWOL offenses. 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. Therefore, the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

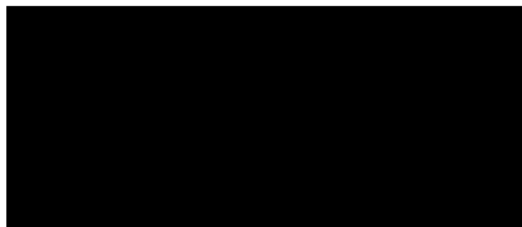
(3) The RE code will change to RE-3.

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:

2/13/2024



AWOL – Absent Without Leave
 AMHRR – Army Military Human Resource Record
 BCD – Bad Conduct Discharge
 BH – Behavioral Health
 CG – Company Grade Article 15
 CID – Criminal Investigation Division
 ELS – Entry Level Status
 FG – Field Grade Article 15

GD – General Discharge
 HS – High School
 HD – Honorable Discharge
 IADT – Initial Active Duty Training
 MP – Military Police
 MST – Military Sexual Trauma
 N/A – Not applicable
 NCO – Noncommissioned Officer
 NIF – Not in File
 NOS – Not Otherwise Specified

OAD – Ordered to Active Duty
 OBH (I) – Other Behavioral Health (Issues)
 OMPF – Official Military Personnel File
 PTSD – Post-Traumatic Stress Disorder
 RE – Re-entry
 SCM – Summary Court Martial
 SPCM – Special Court Martial

SPD – Separation Program Designator
 TBI – Traumatic Brain Injury
 UNC – Uncharacterized Discharge
 UOTHC – Under Other Than Honorable Conditions
 VA – Department of Veterans Affairs