

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, being very young, having just returned from a year in Iraq, and being newly married, which caused the applicant much stress. The applicant was lost, confused, and fearful of seeking assistance. Instead, the applicant began using drugs and alcohol, which became out of control. After receiving treatment for their addiction, the applicant has made positive changes in their life and continues to work on their recovery.

b. **Board Type and Decision:** In a records review conducted on 7 March 2024, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Depression and Bipolar Disorder outweighing the applicant's drug abuse, AWOL, and FTR 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. The reentry code (RE) was changed 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:** 5 December 2005

c. Separation Facts:

(1) **Date of Notification of Intent to Separate:** 10 November 2005

(2) **Basis for Separation:** The applicant was informed of the following reasons: On 29 July 2005, the applicant wrongfully tested positive for Methamphetamines, which resulted in conviction by Special Courts-Martial.

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

(4) **Legal Consultation Date:** On 10 November 2005, the applicant waived legal counsel.

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 16 November 2005 / General
(Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 6 March 2003 / 4 years

b. Age at Enlistment / Education / GT Score: 19 / High School Graduate / 113

Highest Grade Achieved / MOS / Total Service: E-4 / 92F10, Petroleum Supply Specialist /
2 years, 8 months, 11 days

c. Prior Service / Characterizations: None

d. Overseas Service / Combat Service: Hawaii, SWA / Iraq (13 January 2004 –
28 January 2005)

e. Awards and Decorations: NDSM, ASR, OSR, GWOTSM, ICM The applicant's AMHRR
reflects award of the GWOTEM, however, the award is not reflected on the DD Form 214.

f. Performance Ratings: None

g. Disciplinary Action(s) / Evidentiary Record: Electronic Copy of DD Form 2624,
12 July 2005, reflects the applicant tested positive for, methamphetamines during an Inspection
Random (IR) urinalysis testing, conducted on, 1 July 2005.

Report of Result of Trial reflects the applicant was tried in a Summary Court-Martial. The
applicant was charged with nine specifications. The summary of offenses, pleas, and findings:

Charge I Article 86:

Specification 1: On or about 4 April 2005, without authority fail to go at the time prescribed to
appointed place of duty. Plea: Not guilty; Finding: Not Guilty.

Specification 2: On or about 21 April 2005, without authority fail to go at the time prescribed
to appointed place of duty. Plea: Not guilty; Finding: Not Guilty.

Specification 3: On or about 24 May 2005, without authority fail to go at the time prescribed
to appointed place of duty. Plea: Guilty; Finding: Guilty.

Specification 4: On or about 16 June 2005, without authority fail to go at the time prescribed
to appointed place of duty. Plea: Guilty; Finding: Guilty.

Specification 5: On or about 21 June 2005, without authority fail to go at the time prescribed
to appointed place of duty. Plea: Guilty; Finding: Guilty.

Specification 6: On or about 27 June 2005, absent oneself from their unit and did remain so
absent until apprehended on or about, 29 June 2005. Plea: Guilty; Finding: Guilty.

Charge II Article 90:

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001337

Specification 1: On or about 3 June 2005, disobeyed a lawful order. Plea: Not Guilty; Finding: Not Guilty, but guilty to the lesser included offense violating another lawful order in violation of article 92 UCMJ except the word “willfully to the excepted word not guilty.

Specification 2: On or About 27 June 2005, disobeyed a lawful order. Plea: Not Guilty; Finding: Not Guilty, but guilty to the lesser included offense violating another lawful order in violation of article 92 UCMJ except the word “willfully to the excepted word not guilty.

Charge III Article 134: Specification: On or about, 27 June 2005, wrongfully communicate to their spouse, Specialist M., a threat to wit: “I will kill you” or words to that effect. Plea: Not guilty; Finding: Not Guilty.

Additional Charge 112a: Between on or about, 22 June and 29 June 2005, wrongfully use Methamphetamines a controlled substance. Plea: Guilty; Finding: Guilty.

Sentence: To be confined for 179 days and 70 days credited toward post trail confinement.; reduction to E-3 and forfeiture \$1.030 pay per month for six months.

h. Lost Time / Mode of Return: 18 days (AWOL, 25 June 2003 – 13 July 2003) / NIF

i. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: Report of Medical History, 16 October 2005, the examining medical physician noted in the comments section: Anxiety, depression, and nervous.

Report of Mental Status Evaluation, 17 October 2005, 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: Axis II Methamphetamine Dependence, in early sustained remission, in a controlled environment (Brig x 5 months).

Report of Medical Examination, undated, the examining medical physician noted in the comments section: depressed mood.

5. APPLICANT-PROVIDED EVIDENCE: DD Form 214; DD Form 293 and self-authored letter.

6. POST SERVICE ACCOMPLISHMENTS: The applicant sought treatment for their addiction.

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 narrative reason for the discharge needs to be changed. The applicant was separated under the provisions of Chapter 14, paragraph 14-12c(2), AR 635-200 with a general (under honorable conditions) discharge. The narrative reason specified by Army Regulations for a discharge under this paragraph is "Misconduct (Drug Abuse)," and the separation code is "JKK." Army Regulation 635-8 (Separation Processing and Documents) governs preparation of the DD Form 214 and dictates the entry of the narrative reason for separation, entered in block 28 and separation code, entered in block 26 of the form, will be as listed in tables 2-2 or 2-3 of AR 635-5-1 (Separation Program Designator (SPD) Codes). The regulation stipulates no deviation is authorized. There is no provision for any other reason to be entered under this regulation.

The applicant contends being lost, confused, and fearful of seeking assistance. Instead, the applicant began using drugs and alcohol, which became out of control. The applicant did not submit any evidence, other than the applicant's statement, to support the contention and 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's AMHRR includes a Report of Medical History, 16 October 2005, the examining medical physician noted in the comments section: Anxiety, depression, and nervous. A Report of Medical Examination, undated, the examining medical physician noted in the comments section: depressed mood. Also, a Report of Mental Status Evaluation, 17 October 2005, 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: Axis II Methamphetamine Dependence, in early sustained remission, in a controlled environment (Brig x 5 months). The MSE and Report of Medical History and Examination were 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 family issues affected behavior and ultimately caused the discharge. 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 seeking treatment for their addiction. 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, the applicant's statement, and/or civilian provider documentation and

found that the applicant has the following potentially mitigating diagnoses/experiences: Depression, Anxiety, and Bipolar Disorder.

(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 Depression and Anxiety. Post service, the VA diagnosed the applicant with Bipolar Disorder. Given the typical onset of Bipolar Disorder, it is more likely than not that the applicant had Bipolar Disorder at the time of military service.

(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 Depression and Anxiety. Post service, the VA diagnosed the applicant with Bipolar Disorder. Given the typical onset of Bipolar Disorder, it is more likely than not that the applicant had Bipolar Disorder at the time of military service. Given the nexus between Depression, Bipolar Disorder, and self-medicating with substances, the use of methamphetamine that led to the applicant's separation is mitigated. Given the nexus between Depression and avoidance, as well as the nexus between Bipolar Disorder, impulsivity, and difficulty with daily functioning, the additional misconduct of FTRs and AWOL are also 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 Depression and Bipolar Disorder outweighed the applicant's illegal substance abuse, AWOL, FTR offenses.

b. Response to Contention(s):

(1) The applicant contends being lost, confused, and fearful of seeking assistance. Subsequently, the applicant began using drugs and alcohol, which got out of control. The Board found this contention credible and determined that the applicant's Depression and Bipolar Disorder outweighed the illegal substance abuse, AWOL, and FTR offenses.

(2) The applicant contends the narrative reason for the discharge needs to be changed. The Board considered this contention and found it credible based on medical mitigation as discussed in 9b(1) above.

(3) The applicant contends youth and immaturity affected the applicant's behavior at the time of the discharge. The Board considered this contention but ultimately did not address it due to an upgrade being granted based on medical mitigation as discussed in 9b(1) above.

(4) The applicant contends family issues affected behavior and ultimately caused the discharge. The Board considered this contention but ultimately did not address it due to an upgrade being granted based on medical mitigation as discussed in 9b(1) above.

(5) The applicant contends seeking treatment for their addiction. The Board commended the applicant's post-service accomplishments, including treatment.

c. The Board determined the discharge is inequitable based on the applicant's Depression and Bipolar Disorder outweighing the applicant's drug abuse, AWOL, and FTR 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. The RE was changed to RE-3.

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001337

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's BH conditions outweighed the applicant's basis of separation (drug use) and additional misconduct (FTRs, AWOL). Thus, the prior characterization is no longer appropriate.

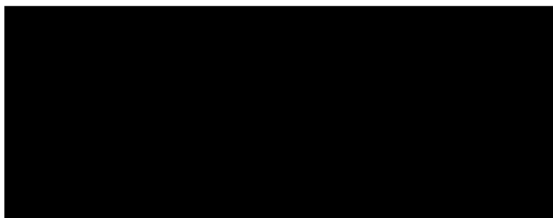
(2) The Board voted to change the reason for discharge to Misconduct (Minor Infractions) under the same pretexts. Thus, the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JKN.

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

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:



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