

**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, because rehabilitation was not provided, the discharge should be reviewed for an upgrade. Despite the unit's lack of sensitivity or proactive approach to the matter, it was clear the applicant was suffering from PTSD. Because the unit frowned on receiving psychological services, the applicant did not seek the necessary support. The applicant was denied the right to be rehabilitated and was instead discharged prematurely. The applicant was not provided with an E-5 or higher rank escort during out-processing to guarantee the applicant was properly discharged. The applicant's symptoms were recognized by the chain of command prior to testing positive for marijuana, but no assistance was provided. Instead, the unit observed the applicant crash and burn when the PTSD flared up. The PTSD, along with the unit's lack of assistance, drove the applicant to seek relief through alternate means which led to the discharge. The applicant was neither sober nor capable of understanding what was written or what was being asked while signing out-processing forms. The applicant was forced to sign all the documents or face harassment from the chain of command. At the time, the applicant lacked the strength, understanding, and resources to fight for their rights. The unit exploited the disease, and the applicant continues to endure the consequences. The applicant is receiving VA treatment for PTSD, a service-connected disability which was never treated while serving. The applicant lost close friends during deployment, was exposed to corpses, and was involved in an IED explosion. The applicant gave up the life and dedicated oneself to unselfish service for the country. The applicant will never forget those who died in the fight for American liberty; therefore, the applicant will fight for the right to be treated properly. After having worked hard to live with loyalty, responsibility, respect, selfless devotion, honor, honesty, and personal courage, the applicant should not have to feel ashamed of their military service. However, the system failed the applicant by failing to provide the necessary services. Being a combat veteran is extremely difficult, and the applicant continues to suffer daily. The applicant desires an upgrade to honorable.

**Board Type and Decision:** In a records review conducted on 14 December 2023, the Board carefully considered the applicant's request, supporting documents, evidentiary record, medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. By a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's diagnosed PTSD mitigating the misconduct that led to the separation (marijuana use). 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. Accordingly, the narrative reason for separation was changed to Misconduct (Minor Infractions) with a corresponding SPD of JKN and RE-Code of 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:** 21 June 2012

**c. Separation Facts:**

**(1) Date of Notification of Intent to Separate:** 4 June 2012

**(2) Basis for Separation:** The applicant was informed of the following reasons: The applicant wrongfully used Marijuana between 19 February and 21 March 2012.

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

**(4) Legal Consultation Date:** 4 June 2012

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

**(6) Separation Decision Date / Characterization:** 5 June 2012 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 23 July 2008 / 5 years

**b. Age at Enlistment / Education / GT Score:** 19 / High School Graduate / 95

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 25U10, Signal Support System Specialist / 3 years, 10 months, 29 days

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

**e. Overseas Service / Combat Service:** SWA / Iraq (12 July 2010 – 11 July 2011)

**f. Awards and Decorations:** ICM-2CS, ARCOM, AAM, AGCM, NDSM, GWOTSM, ASR, OSR, CAB

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** Developmental Counseling Form for being recommended for separation.

Report of Mental Status Evaluation, 26 April 2012, 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 had been screened for PTSD and mTBI with negative results. The conditions were either not present or did not meet AR 40-501 criteria for a medical evaluation board. The command was advised to consider the influence of these conditions.

Electronic Copy of DD Form 2624, 9 April 2012, reflects the applicant tested positive for THC (marijuana), during an Inspection Unit (IU) urinalysis testing, conducted on 21 March 2012.

FG Article 15, 7 May 2012, for wrongfully using marijuana (between 21 February and 21 March 2006). The punishment consisted of a reduction to E-1; forfeiture of \$745 pay per month for two months; and extra duty and restriction for 45 days.

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

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

**(1) Applicant provided:** VA Patient Data Indices/Clinical Data Indices, 5 February 2015, indicates the applicant is 30 percent service-connected for PTSD.

VA Social Work Admission Evaluation Note, 9 February 2015, reflects an initial DSM-IV diagnosis: PTSD and Alcohol Use Disorder.

VA Statement of Case, 23 February 2015, reflects the applicant was assigned a 30 percent evaluation for PTSD.

**(2) AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:** Online application; VA compensation letter; DD Form 214; ARBA letter; VA medical records; and VA summary of benefits letter.

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with the application.

**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 not being provided the right to rehabilitation and the chain of command provided no assistance. Army Regulation 635-200 (2), entitled counseling and rehabilitative requirements, states the separation authority may waive the rehabilitative requirements in circumstances where common sense and sound judgment indicate such a transfer will serve no useful purpose or produce a quality, Soldier. Army Regulation 600-85, paragraph 7-3 entitled

voluntary (self) identification and referral, states voluntary (self) ID is the most desirable method of identifying substance use disorder. The individual whose performance, social conduct, interpersonal relations, or health becomes impaired because of these problems has the personal obligation to seek help. Soldiers seeking self-referral for problematic substance use may access services through BH services for a SUD evaluation. The Limited Use Policy exists to encourage Soldiers to proactively seek help.

The applicant contends being diagnosed and treated for PTSD by the VA. The applicant provided several medical documents indicating a diagnosis and treatment for PTSD. The AMHRR shows the applicant underwent a mental status evaluation (MSE) on 26 April 2012, which indicates the applicant was mentally responsible and recognized right from wrong. The MSE does not indicate any diagnosis. The MSE was considered by the separation authority.

The applicant contends although clearly suffering from PTSD, the unit offered no assistance; was denied the right to be rehabilitated; and was forced to sign out-processing documents or face harassment from the chain-of-command. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command. There is no evidence in the AMHRR the applicant sought assistance or reported the harassment.

The applicant contends giving up the life and dedicated oneself to unselfish service and worked hard to live the seven Army Values of loyalty, responsibility, respect, selfless devotion, honor, honesty, and personal courage. The Board considered the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

#### **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: PTSD.

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

(3) Does the condition or experience actually excuse or mitigate the discharge? **Yes.** The Board's Medical Advisor applied liberal consideration and opined that the applicant is diagnosed, and service connected by the VA for PTSD. Given the nexus between PTSD and self-medicating with substances, the marijuana use that led to the separation is mitigated.

(4) Does the condition or experience outweigh the discharge? **Yes.** The Board concurred with the Medical Advisor's opine and found that the applicant's PTSD outweighed the misconduct that led to the separation (marijuana use).

b. Response to Contention(s):

(1) The applicant requests an upgrade to honorable and the narrative reason for discharge needs to be changed. The Board considered this contention during proceedings and voted to grant an upgrade because the applicant's PTSD outweighed the basis for separation.

(2) The applicant contends not being provided the right to rehabilitation and the chain of command provided no assistance and was forced to sign out-processing documents or face harassment from the chain-of-command. The board considered this contention and determined the separation authority may waive the rehabilitative requirements in circumstances where common sense and sound judgment indicate such a transfer will serve no useful purpose or produce a quality Soldier pursuant to Army Regulation 635-200, paragraph 1-17d (2). The applicant did not provide sufficient evidence of any arbitrary or capricious action taken by command during separation proceedings. Nevertheless, the Board voted that relief was warranted based on other circumstances as outlined above in paragraph 9a (3-4) and 9b (1).

(3) The applicant contends being diagnosed and treated for PTSD by the VA. The board considered and determined that the criteria used by the VA in determining whether a former servicemember is eligible for benefits are different than that used by the Army when determining a member's discharge characterization. The applicant service record shows the applicant underwent a mental status evaluation (MSE) on 26 April 2012 which indicates the applicant was mentally responsible and recognized right from wrong. The MSE was considered by the separation authority. Nevertheless, the Board voted that relief was warranted based on other circumstances as outlined above in paragraph 9a (3-4) and 9b (1).

(4) The applicant contends giving up their life and dedicating oneself to unselfish service. The Board considered this contention but ultimately did not address it given an upgrade is warranted based on other circumstances as outlined above in paragraph 9a (3-4) and 9b (1).

c. The Board determined the discharge is inequitable based on the applicant's PTSD mitigating the basis of separation (marijuana use). Therefore, the Board voted to grant relief in the form of an upgrade of characterization to Honorable and changed 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 SPD of JKN and RE-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 PTSD mitigated the basis of separation (marijuana use). Therefore, 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. The SPD code associated with the new reason for discharge is JKN.

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

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

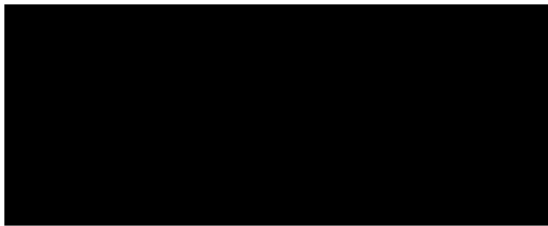
**AR20210001396**

**10. BOARD ACTION DIRECTED:**

- a. Issue a New DD-214 / Separation Order: 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:**

12/29/2023



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