

**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, suffering from depression while in a flight status, and had to choose whether to medicate or abandon the flight status. The mental health condition was so terrible and led to the decision to medicate, resulting in the applicant failing a random drug test. The applicant self-referred in the Army Substance Abuse Program (ASAP) and completed the course successfully. The discharge was made in accordance with the Fort Bliss policy at the time. The applicant states previous and subsequent offenders of the same offense were allowed second chances under a post policy which was changed after the applicant's discharge. The Soldiers were provided the task of completing ASAP as soon as possible, and if they succeeded, they were retained in the Army. The applicant was awarded the Air Medal with Valor, the Combat Action Badge for service in Afghanistan, the Army Achievement Medal, and an ARCOM, all of which indicate the applicant's outstanding achievements while in the Army. Admitting to making a mistake, the applicant believes a second chance should have been granted at the time. The discharge had a severe detrimental impact on the applicant's life, and it would follow the applicant for the rest of their life. Because of the misunderstandings around the discharge, the applicant was denied employment opportunities.

**b. Board Type and Decision:** In a records review conducted on 24 October 2023, and by a 5-0 vote, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's PTSD mitigating the applicant's drug abuse (wrongful use of cocaine). 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, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN.

*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:** 4 October 2012

**c. Separation Facts:** The applicant's case separation file is void from the Army Military Human Resource Record (AMHRR).

**(1) Date of Notification of Intent to Separate:** NIF

- (2) **Basis for Separation:** NIF
- (3) **Recommended Characterization:** NIF
- (4) **Legal Consultation Date:** NIF
- (5) **Administrative Separation Board:** NIF
- (6) **Separation Decision Date / Characterization:** NIF

**4. SERVICE DETAILS:**

- a. **Date / Period of Enlistment:** 1 July 2009 / 6 years
- b. **Age at Enlistment / Education / GT Score:** 18 / High School Graduate / NIF
- c. **Highest Grade Achieved / MOS / Total Service:** E-4 / 15T10, UH-60 Helicopter Repairer / 3 years, 3 months, 4 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** SWA / Afghanistan (19 June 2010 – 21 June 2011)
- f. **Awards and Decorations:** ACM-CS, AM-V, ARCOM, VUA, NDSM, GWOTSM, ASR, OSR, NATOMDL, CAB
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** The applicant's DD Form 214, 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. The applicant had no time lost.
- i. **Lost Time / Mode of Return:** None
- j. **Behavioral Health Condition(s):**

(1) **Applicant provided:** DA Form 7098 (ASAP Outpatient Treatment Plan and Review), 11 June 2012, reflects an "Axis I" diagnosis of "292.2 Cocaine-Related Disorder NOS."

Department of Veterans Affairs decision letter, 8 May 2014, reflecting the applicant was rated 70 percent disability for PTSD with major depressive disorder.

(2) **AMHRR Listed:** None

- 5. **APPLICANT-PROVIDED EVIDENCE:** DD Form 293 with list enclosures; DD Form 214; self-authored letter to Congressman; and self-authored memorandum for record.
- 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's Army Military Human Resources Record (AMHRR) is void of the specific facts and circumstances concerning the events which led to the discharge from the Army. The applicant's AMHRR does contain a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty), which was authenticated by the applicant's electronic signature. The applicant's DD Form 214 indicates the applicant was discharged under the provisions of AR 635-200, Chapter 14, paragraph 14-12c (2), by reason of Misconduct (Drug Abuse), with a characterization of service of general (under honorable conditions).

The applicant contends suffering from depression and had to choose whether to medicate or abandon the flight status; the mental health condition was so terrible leading to the decision to medicate and subsequently failing a random drug test. The applicant provided a Department of Veterans Affairs disability decision, 8 May 2014, reflecting the applicant was rated 70 percent disability for PTSD with depressive disorder. The applicant's AMHRR contains documentation which supports a diagnosis of in-service PTSD and depression.

The applicant contends self-referring into the ASAP and completed the course successfully. The applicant did not submit any evidence of the self-referral, other than the applicant's statement, to support the contention. 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 applicant's AMHRR is void of any evidence of a self-referral in ASAP.

The applicant contends other Soldiers with similar offenses, previous and subsequent offenders, were allowed to stay in the Army under a post policy which was changed after the applicant's discharge. The DODI 1332.28 provides each case must be decided on its individual merits, and a case-by-case basis, considering the unique facts and circumstances of the case. The applicant's available AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

The applicant contends being awarded the Air Medal with Valor, the Combat Action Badge for service in Afghanistan, the Army Achievement Medal, and an ARCOM, all of which indicate the applicant's outstanding achievements while in the Army. The Board will consider the applicant's service accomplishments and the quality of service according to the DODI 1332.28.

The applicant contends the discharge had a severe detrimental impact on the life, and the applicant was denied employment opportunities. The Board does not grant relief to gain employment or enhance employment opportunities.

**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 found that the applicant has the following potentially mitigating diagnoses/experiences: PTSD and Major Depressive Disorder (MDD).

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found the applicant is 70 SC related to combat exposure.

(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 70 percent SC for PTSD. Records suggest the applicant's basis for separation was wrongful use of cocaine. Given that there is an association between PTSD and comorbid substance abuse, there is a nexus between the applicant's misconduct characterized by wrongful use of cocaine and his SC disorder, such that his misconduct is mitigated by the disorder.

(4) Does the condition or experience outweigh the discharge? **Yes.** The Board concurred with the opinion of the Board's Medical Advisor, a voting member. As a result, the ADRB applied liberal consideration and found that the applicant's PTSD outweighed the applicant's basis for separation - drug abuse (wrongful use of cocaine).

**b. Response to Contention(s):**

(1) The applicant contends suffering from depression and had to choose whether to medicate or abandon the flight status; the mental health condition was so terrible leading to the decision to medicate and subsequently failing random drug test. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's PTSD fully outweighing the applicant's drug abuse (wrongful use of cocaine) basis for separation.

(2) The applicant contends self-referring into the ASAP and completed the course successfully. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's PTSD fully outweighing the applicant's drug abuse (wrongful use of cocaine) basis for separation.

(3) The applicant contends other Soldiers with similar offenses, previous and subsequent offenders, were allowed to stay in the Army under a post policy which was changed after the applicant's discharge. The Board considered this contention and determined there is insufficient evidence in the file to support this contention. However, the Board an upgrade is being granted based on the applicant's PTSD fully outweighing the applicant's drug abuse (wrongful use of cocaine) basis for separation.

(4) The applicant contends being awarded the Air Medal with Valor, the Combat Action Badge for service in Afghanistan, the Army Achievement Medal, and an ARCOM, all of which indicate the applicant's outstanding achievements while in the Army. The Board recognizes and appreciates the applicant's willingness to serve and considered this contention during board proceedings along with the totality of the applicant's service record.

(5) The applicant contends the discharge had a severe detrimental impact on the life, and the applicant was denied employment opportunities. The Board considered this contention during proceedings, but ultimately did not address the contention due to an upgrade being granted based on the applicant's PTSD fully outweighing the applicant's drug abuse (wrongful use of cocaine) basis for separation.

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

**AR20210001518**

c. The Board determined the discharge was inequitable based on the applicant's service record (length, quality, and combat service), Major Depressive Disorder (MDD), and PTSD mitigating the applicant's misconduct - drug abuse (wrongful use of cocaine) basis for separation. 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, the narrative reason for separation to Misconduct (Minor Infractions), with a corresponding separation code of JKN. The Board determined the reentry eligibility (RE) code was proper and equitable and voted not to change it.

**d. Rationale for Decision:**

(1) The Board voted to change the applicant's characterization to Honorable because the applicant's PTSD mitigating the applicant's testing positive for cocaine. Thus, the prior characterization is no longer appropriate.

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

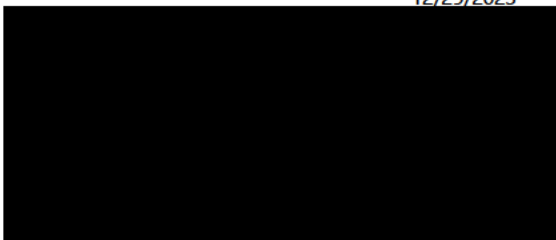
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**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: No Change
- 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