

1. Applicant's Name: [REDACTED]**a. Application Date:** 26 April 2021**b. Date Received:** 26 April 2021**c. Counsel:** [REDACTED]**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, through counsel, requests an upgrade to honorable.

The applicant seeks relief contending, in effect, being discharged for misconduct when the actual reason was mental disorder or condition.

b. Board Type and Decision: In a records review conducted on 1 August 2023, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's schizoaffective disorder outweighing the applicant's illegal substance abuse 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 code is proper and equitable and voted not to change it.

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: 27 August 2015**c. Separation Facts:****(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:** 5 August 2013 / 3 years, 16 weeks
- b. **Age at Enlistment / Education / GT Score:** 19 / HS Graduate / 86
- c. **Highest Grade Achieved / MOS / Total Service:** E-2 / 11B10, Infantryman / 1 year, 11 months, 25 days
- d. **Prior Service / Characterizations:** None
- e. **Overseas Service / Combat Service:** None
- f. **Awards and Decorations:** NDSM, GWOTSM, ASR
- g. **Performance Ratings:** NA
- h. **Disciplinary Action(s) / Evidentiary Record:** Orders 237-0026, dated 25 August 2015, reflect the applicant was to be reassigned to the U.S. Army Transition Point and discharged on 27 August 2015 from the Regular Army.

The applicant's DD Form 214, as amended by DD Form 215, 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 not authenticated with the applicant's signature. The applicant had lost time for the period 31 July to 27 August 2015.

The applicant's Enlisted Record Brief (ERB), dated 31 August 2015, reflects the applicant was flagged for Involuntary Separation or Discharge (Field Initiated) (BA), effective 21 April 2015, and Adverse Action (AA), effective 7 July 2015; was ineligible for reenlistment because of Pending Separation (9V). The Assignment Eligibility Availability code reflects the applicant was temporarily ineligible for reassignments because of medical, convalescence, student and / or trainees (except IET), enrollment in Track III ASAP, or a local bar to reenlistment. The applicant was reduced from E-2 to E-1, effective 12 May 2014.

i. **Lost Time / Mode of Return:** 28 days (NIF, 31 July 2015 – 27 August 2015) / NIF / The applicant provided documents reflecting the applicant went AWOL, on two occasions, and was recently released from jail before being admitted to the hospital on 28 August 2015.

j. Behavioral Health Condition(s):

(1) **Applicant provided:** NASH Health Care Discharge Summaries, dated 4 September 2015, reflects the applicant was admitted on 28 August 2015. The applicant was transported to the Emergency Department by the police because, according to the police, the applicant was looking for a gun to hurt someone. According to the applicant's parent, the applicant had a history of being absent without leave from the military on two occasions, stealing a car, and purchasing a motorcycle, in which the applicant drove without registration and crashed. The applicant admitted to previous drug use, including spice, cannabis, and others. The applicant was diagnosed with unspecified disorder.

University of North Carolina (UNC) Center for Excellence in Community Mental Health letter, dated 30 September 2015, reflecting the applicant was receiving clinical care for schizophreniform disorder and substance use disorder.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE: DD Form 149; DD Form 214; NASH Health Care Discharge Summaries; and UNC Center of Excellence in Community Health 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 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 not authenticated by the applicant's 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 a mental health disorder or condition affected behavior which ultimately led to the discharge. The applicant provided several medical documents indicating a diagnosis of unspecified bipolar disorder, schizophreniform disorder, and substance use disorder. The AMHRR is void of a mental status evaluation.

The applicant contends the discharge should have been for medical reasons. Army Regulation 635-200, in pertinent part, stipulates commanders will not separate Soldiers for a medical condition solely to spare a Soldier who may have committed serious acts of misconduct. The applicant's AMHRR does not contain any indication or evidence of arbitrary or capricious actions by the command.

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: schizoaffective disorder, schizophreniform disorder, bipolar disorder.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found applicant is service-connected for schizoaffective disorder; other diagnoses associated with psychotic features to include schizophreniform disorder and bipolar

spectrum disorder can be subsumed under schizoaffective disorder.

(3) Does the condition or experience actually excuse or mitigate the discharge? Yes. The Board's Medical Advisor applied liberal consideration and opined that applicant's schizophrenia mitigates the discharge. The basis of separation is not in file although available records indicate separation was for misconduct (drug abuse) and active service medical records indicate multiple substance related diagnoses to include use of amphetamines, alcohol, cannabis, cocaine, and spice. Substance misuse is associated with the natural sequelae of schizoaffective disorder, a severe and chronic mental illness, due to self-medication of distress associated with the disorder. There is a complicated relationship between substance use and psychotic disorders to include schizoaffective disorder, but under liberal consideration guidelines - and given service connection and records indicating strong family history of bipolar disorder - advisor will presume Axis I diagnosis as primary and subsequently exacerbated by history of significant substance use. There is limited formal evidence in available service records associated with disciplinary history during the period of service. Schizoaffective disorder would also mitigate the AWOL referenced in records, due to avoidance behaviors and poor judgment/impulsivity often associated with the diagnosis. However, there are also references to stealing a car and purchasing/crashing a motorcycle (without registration) noted in medical records and records also reference release from jail prior to admission to hospital 28 August 2015, which could be consistent with an offense occurring during the applicant's period of service. Psychosis/schizoaffective disorder would mitigate such circumstances if there was evidence of active psychosis or otherwise a level of impairment that resulted in the inability to differentiate right from wrong and adhere to the right, but there is insufficient data to further comment on such circumstances especially as it relates to a possible period of incarceration.

(4) Does the condition or experience outweigh the discharge? Yes. After applying liberal consideration to the evidence, including the Board Medical Advisor opine, the Board determined that the applicant's schizoaffective disorder outweighed the applicant's illegal substance abuse basis for separation.

b. Response to Contention(s):

(1) The applicant contends a mental health disorder or condition affected behavior which ultimately led to the discharge. The Board liberally considered this contention and determined that the applicant's schizoaffective disorder outweighed the applicant's illegal substance abuse basis for separation.

(2) The applicant contends the discharge should have been for medical reasons. The Board considered this contention but determined that the request for discharge via a medical board does not fall within the purview of the ADRB. The applicant may apply to the Army Board for Correction of Military Records (ABCMR), using a DD Form 293 regarding this matter. A DD Form 293 may be obtained online at <https://www.esd.whs.mil/Portals/54/Documents/DD/forms/dd/dd0293.pdf> or from a Veterans' Service Organization.

c. The Board determined the discharge is inequitable based on the applicant's schizoaffective disorder outweighing the applicant's illegal substance abuse 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 code is proper and equitable and voted not to change it..

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210001734

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's schizoaffective disorder outweighed the applicant's illegal substance abuse basis for separation. Thus, the prior characterization is no longer appropriate.

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

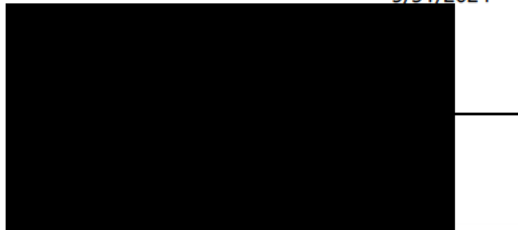
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

10. BOARD ACTION DIRECTED:

- a. **Issue a New DD-214:** 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

Authenticating Official:

5/31/2024



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