

1. Applicant's Name: [REDACTED]

a. Application Date: 28 February 2021

b. Date Received: 12 March 2021

c. Counsel: None

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:

a. Applicant Requests: The current characterization of service for the period under review is general, under honorable conditions. The applicant requests an upgrade to honorable and a narrative reason change.

b. Applicant Contention(s)/Issue(s): The applicant requests relief contending, in effect, that their discharge was both improper and inequitable. They state that their Battalion and Battery Commanders did not follow the guidelines outlined in ARR 600-85 concerning the referral to the Army Substance Abuse Program (ASAP) and separation procedures for a single drug abuse offense. The applicant states they were not referred to ASAP until two weeks prior to their separation date and despite recommendations from both the ASAP and mental health counselors to continue treatment, the battery commander disregarded those recommendations. The applicant states they were diagnosed with PTSD in 2019, which they believe contributed to their substance use.

c. Board Type and Decision: In a records review conducted on 16 July 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's length and quality of service, to include combat service, the circumstances surrounding the discharge (OBHI and PTSD diagnoses), and post-service accomplishments. 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 **Board Discussion and Determination** section for more detail regarding the Board's decision. Board member names are available upon request.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Misconduct (Drug Abuse) / AR 635-200 / JKK / RE-4 / General (Under Honorable Conditions)

b. Date of Discharge: 19 September 2012

c. Separation Facts: The applicant's Army Military Human Resource Record (AMHRR).

(1) Date of Notification of Intent to Separate: 10 September 2012

(2) Basis for Separation: The applicant wrongfully used JWH-018-N-COOH (JWK-018 N-pentanoic acid).

(3) Recommended Characterization: General, under honorable conditions.

(4) Legal Consultation Date: 10 September 2012

(5) Administrative Separation Board: N/A

(6) Separation Decision Date / Characterization: 13 September 2012 / GD

4. SERVICE DETAILS:

- a. Date / Period of Enlistment:** 5 October 2010 / 3 years, 18 weeks
- b. Date / Period of Reenlistment(s):** N/A
- c. Age at Enlistment / Education / GT Score:** 18 / HS Graduate / 102
- d. Highest Grade Achieved / MOS / Total Service:** E-3 / 13B10 Cannon Crewmember / 1 year, 11 months, 15 days.
- e. Prior Service / Characterizations:** N/A
- f. Overseas Service / Combat Service:** None / Iraq; 20100604 – 20101004
- g. Awards and Decorations:** AAM, MUC, NDSM, GWTSM, ICM-CS, ASR
- h. Performance Ratings:** N/A
- i. Disciplinary Action(s) / Evidentiary Record:**

(1) On 7 June 2012, the applicant's immediate commander requested a Probable Cause Urinalysis to determine if the applicant and other soldiers consumed a synthetic cannabinoid: K2 and or spice. The applicant was identified in sworn statements as having either possessed, distributed or consumed K2 or spice.

(2) A Report of Toxicological Examination document dated 9 July 2012 indicates that JWH-018 N-COOH (JWH-018 N-pentanoic acid) was confirmed in the applicant's urine from a urine sample collected on 8 June 2012.

- j. Lost Time / Mode of Return:** None.

k. Behavioral Health Condition(s): The following documents have been provided to the ARBA Medical Advisor, if applicable. See **“Board Discussion and Determination”** for Medical Advisor Details.

(1) Applicant provided: 375 pages Hurley Medical Center medical records, DA Form 3822, DA Form 2807 and a Department of Veteran Affairs rating decision document.

(2) AMHRR provided: None.

5. APPLICANT-PROVIDED EVIDENCE: A DD Form 293 (Discharge Review) application, DD Form 214, their complete AMHRR, AR 600-85, Hurley Medical Center medical records, DA Form 3822, DA Form 2808, DA Form 2807, Irwin Army Community Hospital patient lab inquiry report, Hearing Conservation Data document, and a Department of Veteran Affairs rating decision document in support of their application.

6. POST SERVICE ACCOMPLISHMENTS: None submitted in support of their 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. Office, Secretary of Defense memorandum (Supplemental Guidance to Military Boards for Correction of Military/Naval Records Considering Discharge Upgrade Requests by Veterans Claiming Post Traumatic Stress Disorder), 3 September 2014, directed the Service Discharge Review Boards (DRBs) and Service Boards for Correction of Military/Naval Records (BCM/NRs) to carefully consider the revised PTSD criteria, detailed medical considerations and mitigating factors when taking action on applications from former service members administratively discharged UOTHC and who have been diagnosed with PTSD by a competent mental health professional representing a civilian healthcare provider in order to determine if it would be appropriate to upgrade the characterization of the applicant's service.

c. Office, Under Secretary of Defense memorandum (Clarifying Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Considering Requests by Veterans for Modification of their Discharge Due to Mental Health Conditions, Sexual Assault, or Sexual Harassment), 25 August 2017 issued clarifying guidance for the Secretary of Defense Directive to DRBs and BCM/NRs when considering requests by Veterans for modification of their discharges due in whole or in part to mental health conditions, including PTSD; Traumatic Brain Injury; sexual assault; or sexual harassment. Boards are to give liberal consideration to Veterans petitioning for discharge relief when the application for relief is based in whole or in part to those conditions or experiences. The guidance further describes evidence sources and criteria and requires Boards to consider the conditions or experiences presented in evidence as potential mitigation for misconduct that led to the discharge.

d. Office, Under Secretary of Defense memorandum (Guidance to Military Discharge Review Boards and Boards for Correction of Military/Naval Records Regarding Equity, Injustice, or Clemency Determinations), 25 July 2018 issued guidance to Military DRBs and BCM/NRs regarding equity, injustice, or clemency determinations. Clemency generally refers to relief specifically granted from a criminal sentence. However, the guidance applies to more than clemency from a sentencing in a court-martial; it also applies to other corrections, including changes in a discharge, which may be warranted based on equity or relief from injustice.

(1) This guidance does not mandate relief but rather provides standards and principles to guide Boards in application of their equitable relief authority. In determining whether to grant relief on the basis of equity, injustice, or clemency grounds, DRBs shall consider the prospect for rehabilitation, external evidence, sworn testimony, policy changes, relative severity of misconduct, mental and behavioral health conditions, official governmental acknowledgement

that a relevant error or injustice was committed, and uniformity of punishment.

(2) Changes to the narrative reason for discharge and/or an upgraded character of service granted solely on equity, injustice, or clemency grounds normally should not result in separation pay, retroactive promotions, and payment of past medical expenses or similar benefits that might have been received if the original discharge had been for the revised reason or had the upgraded service characterization.

e. Army Regulation 15-180 (Army Discharge Review Board), dated 25 September 2019, 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.

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 waivable and nonwaivable separations. Table 3-1, defines reentry eligibility (RE) codes:

(1) RE-1 Applies to: Person completing their term of active service who is considered qualified to reenter the U.S. Army. Eligibility: Qualified for enlistment if all other criteria are met.

(2) RE-3 Applies to: Person who is not considered fully qualified for reentry or continuous service at time of separation, but disqualification is waivable. Eligibility: Ineligible unless a waiver is granted.

(3) RE-4 Applies to: Person separated from last period of service with a nonwaivable 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.

g. 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. It states:

(a) 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.

(b) 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.

(c) An under other-than-honorable-conditions discharge is an administrative separation from the Service under conditions other than honorable and it may be issued for

misconduct, fraudulent entry, security reasons, or in lieu of trial by court martial based on certain circumstances or patterns of behavior or acts or omissions that constitute a significant departure from the conduct expected of Soldiers in the Army.

(d) A Bad Conduct discharge will only be given to a Soldier pursuant to an approved sentence of general or special court-martial. Enlisted service members and officers with less than six years of service are eligible for a Bad Conduct Discharge. Behaviors such as drug abuse, assault, theft, insubordination, and other actions that violate military law may be punished with a BCD.

(e) A Dishonorable discharge is the most severe type of discharge and will be given to a Soldier pursuant only to an approved sentence of general or special court-martial. The appellate review must be completed and affirmed sentence ordered duly executed. Behaviors such as fraud, desertion, treason, espionage, sexual Assault, and murder and other actions may be punished with a dishonorable discharge.

(2) 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. 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. Paragraph 14-12c, states a Soldier is subject to action per this section for commission of a serious military or civilian offense, if the specific circumstances of the offense warrant separation and a punitive discharge is, or would be, authorized for the same or a closely related offense under the Manual for Courts-Martial.

(3) Chapter 15 provides explicitly for separation under the prerogative of the Secretary of the Army. Secretarial plenary separation authority is exercised sparingly and seldom delegated. Ordinarily, it is used when no other provision of this regulation applies, and early separation is clearly in the Army's best interest. Separations under this paragraph are effective only if approved in writing by the Secretary of the Army or the Secretary's approved designee as announced in updated memoranda. Secretarial separation authority is normally exercised on a case-by-case basis. If Secretarial Authority is granted normally correct the record to show the following:

- Separation Authority: Army Regulation 635-200, Chapter 15
- Separation Code: JFF
- Reenlistment Code: RE1
- Narrative Reason for Separation: Secretarial Plenary Authority
- Character of Service: Honorable

h. 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, paragraph 12c, misconduct (drug abuse).

i. Army Regulation 600-85 (Army Substance Abuse Program (ASAP)) governs the program and identifies Army policy on alcohol and other drug abuse, and responsibilities. The ASAP is a command program that emphasizes readiness and personal responsibility. It provides the ultimate decision regarding separation or retention of abusers is the responsibility of the

Soldier's chain of command. Abuse of alcohol or the use of illicit drugs by military personnel is inconsistent with Army values and the standards of performance, discipline, and readiness necessary to accomplish the Army's missions. Individuals who do not self-refer for treatment and are subsequently identified as positive for controlled substances for which they do not have a valid prescription may be considered in violation of the UCMJ for drug misuse/abuse.

- Any soldier identified as an illegal drug abuser through drug testing requires a mandatory referral to the ASAP counseling center for evaluation within five duty days.
- If a unit commander believes a soldier does not have potential for future service, the soldier will be processed for administrative separation in accordance with AR 635-200. If rehabilitation services are indicated, the soldier will be provided services until separation.

8. SUMMARY OF FACT(S): Standard of Review. The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

- a.** The applicant requests an upgrade to honorable, and a narrative reason change. The applicant's DD-214 indicates the applicant received a General (under honorable conditions) characterization of service, rather than an under other than honorable conditions (UOTHC) discharge which is normally considered appropriate for a soldier discharged for drug abuse.
- b.** Based on the available evidence the applicant deployed to Iraq for six months, and six months after returning from deployment, they tested positive for the use of a synthetic cannabinoid. The applicant's DD Form indicates they received a rank reduction on 30 July 2012 to PV1, which indicates they received a nonjudicial punishment (NJP) in connection with the offense.
- c.** The applicant was notified of the intent to separate them for misconduct (abuse of illegal drugs), they acknowledged they understood the basis for separation under the provisions AR 635-200, CH 14-12c. They waived consulting with counseling and a properly constituted DD Form 214, authenticated by the applicant's signature shows they were discharged under the provisions of AR 635-200, CH 14-12c, by reason of misconduct (Drug Abuse) with a general, under honorable conditions characterization of service on 19 September 2012.
- d.** Chapter 14 establishes policy and prescribes procedures for members being separated for misconduct. Specific categories include minor disciplinary infractions, a pattern of misconduct, commission of a serious offense and convictions by civil authorities. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impracticable or is unlikely to succeed. 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.
- e.** Published Department of Defense guidance indicates that the guidance is not intended to interfere or impede on the Board's statutory independence. The Board will determine the relative weight of the action that led to the discharge and whether it supports relief or not. In reaching its determination, the Board shall consider the applicant's petition, available records and/or submitted documents in support of the petition.

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: MDD; PTSD. [Note: diagnosis of Adjustment DO with depressed mood is subsumed under diagnosis of MDD.]

(2) Did the condition exist, or experience occur during military service? **Yes.** The Board's Medical Advisor found VA service connection of 70% for PTSD with Major Depressive DO (MDD) establishes nexus with active 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 has a mitigating BH condition, PTSD. As there is a nexus between PTSD and self-medication with illicit drugs, there is a nexus between their diagnosis of PTSD and wrongful use of JWK-018-N-pentanoic acid.

(4) Does the condition or experience outweigh the discharge? **Yes.** Based on liberally considering all the evidence before the Board, the ADRB determined that the condition or experience outweighed the basis of separation.

b. Prior Decisions Cited: None.

c. Response to Contention(s): The applicant requests relief contending, in effect, that their discharge was both improper and inequitable. They state that their Battalion and Battery Commanders did not follow the guidelines outlined in ARR 600-85 concerning the referral to the Army Substance Abuse Program (ASAP) and separation procedures for a single drug abuse offense. The applicant states they were not referred to ASAP until two weeks prior to their separation date and despite recommendations from both the ASAP and mental health counselors to continue treatment, the battery commander disregarded those recommendations. The applicant states they were diagnosed with PTSD in 2019, which they believe contributed to their substance use. The Board liberally considered this contention and determined that it was valid due to the applicant's Post Traumatic Stress Disorder outweighing the applicant's Drug abuse offense. Therefore, a discharge upgrade is warranted.

d. The Board determined: The Board carefully considered the applicant's request, supporting documents, evidence in the records, a medical review, and published Department of Defense guidance for liberal consideration of discharge upgrade requests. The Board considered the applicant's statement, record of service, the frequency and nature of misconduct, and the reason for separation. The Board found sufficient evidence of in-service mitigating factors (Length, Combat, Quality) and concurred with the conclusion of the medical advising official that the applicant's (PTSD, Major Depressive DO) does mitigate the applicant's misconduct drug abuse. Based on a preponderance of evidence, the Board determined that the character of service the applicant received upon separation was inequitable and warrants an upgrade.

e. Rationale for Decision:

(1) Published Department of Defense guidance indicates the guidance is not intended to interfere or impede on the Board's statutory independence. The Board determines the relative

weight of the action that was the basis for the discharge and whether it supports relief or not. In reaching its determination, the Board considers the applicant's petition, available records and any supporting documents included with the petition.

(2) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Post Traumatic Stress Disorder outweighed the applicant's misconduct of drug abuse. Thus, the prior characterization is no longer appropriate

(3) 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.

(4) 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
 - a. Change Reason / SPD code to: Misconduct (Minor Infractions)/JKN
 - c. Change RE Code to: No Change
 - d. Change Authority to: AR 635-200

Authenticating Official:

7/18/2025



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
FTR – Failure to Report

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