

1. **Applicant's Name:** [REDACTED]
- a. **Application Date:** 17 September 2020
- b. **Date Received:** 1 October 2020
- 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.

b. The applicant seeks relief to attend school and for job purposes.

c. The applicant did not present any issues of propriety or equity for the Board's consideration.

d. **Board Type and Decision:** In a records review conducted on 8 May 2024, and by a 5-0 vote, the Board determined the narrative reason for the applicant's separation is inequitable based on the applicant's length and quality of his service, and the circumstances surrounding the discharge (Post-Traumatic Stress Disorder due to Military Sexual Trauma, Traumatic Brain Injury, and Intimate Partner Violence). Therefore, the Board directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF. The board determined the RE code was proper and equitable and voted not to change it due to the applicant's behavioral health condition.

*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:** 3 June 2019

c. **Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 15 May 2019

(2) **Basis for Separation:** The applicant was informed of the following reasons: The applicant wrongfully used marijuana on multiple occasions.

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

(4) **Legal Consultation Date:** On 16 May 2019, the applicant waived legal counsel.

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

(6) Separation Decision Date / Characterization: 22 May 2019 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

- a. Date / Period of Enlistment:** 23 October 2017 / 3 years and 24 weeks
- b. Age at Enlistment / Education / GT Score:** 19 / High School Graduate / 87
- c. Highest Grade Achieved / MOS / Total Service:** E-3 / 92G10, Culinary Specialist / 1 year, 7 months, and 11 days.
- d. Prior Service / Characterizations:** None
- e. Overseas Service / Combat Service:** None
- f. Awards and Decorations:** NDSM and ASR
- g. Performance Ratings:** NA
- h. Disciplinary Action(s) / Evidentiary Record:**

(1) Electronic Copy of DD Form 2624, dated 9 January 2019, shows the applicant tested positive for THC 19 (marijuana), during an Inspection Random (IR) urinalysis testing, conducted on 26 November 2018.

(2) On 14 January 2019, the applicant was counseled for testing positive for marijuana, initiation of a flag, recommendation for an Article 15, and referral to Army Substance Abuse Program (ASAP).

(3) ASAP Enrollment form, dated 19 January 2019, shows the applicant was command-referred in the ASAP.

(4) Three character letters were provided. They all spoke highly of the applicant, stating the applicant always accomplished their mission without problems and always displayed Army values. Even in difficult situations the applicant always maintained their military bearing.

(5) Report of Mental Status Evaluation (MSE) page one of two, dated 19 February 2019, shows the applicant was cleared for any administrative actions deemed appropriate by the command. The applicant met medical retention requirements. The applicant was screened for PTSD and TBI. There are no diagnoses.

(6) Electronic Copy of DD Form 2624, dated 29 April 2019, shows the applicant tested positive for THC 98 (marijuana), during an Inspection Random (IR) urinalysis testing, conducted on 29 March 2019.

(7) On 3 May 2019, the applicant was counseled for testing positive for marijuana for a second time.

(8) On 15 May 2019, the applicant was counseled on initiation of a flag and recommendation for a chapter 14-12c (2), misconduct-abuse of illegal drugs.

(9) On 15 May 2019, the commander initiated action to separate the applicant for wrongfully using marijuana on multiple occasions.

(10) The applicant's Enlisted Record Brief, dated 6 June 2019, shows the applicant was flagged for involuntary separation/field initiated (BA), effective 15 May 2019; was ineligible for reenlistment due to pending separation (9V). The Assignment Eligibility Availability (AEA) code shows AEA code "L" which has no assignment restrictions.

i. Lost Time / Mode of Return: None

j. Behavioral Health Condition(s):

(1) Applicant provided: None

(2) AMHRR Listed: MSE as described in previous paragraph 4h.

The ARBA's medical advisor reviewed DoD and VA medical records.

5. APPLICANT-PROVIDED EVIDENCE: DD Form 293.

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) 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.

(2) 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.

(3) 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.

(4) 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.

(5) 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.

(6) 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.

e. Army Regulation 635-5-1 (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 RE codes:

(1) RE-1 Applies to: Person completing his or her 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 waiverable. Eligibility: Ineligible unless a waiver is granted.

(3) 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.

a. The applicant requests an upgrade to honorable. The applicant's AMHRR, the issues, and documents submitted with the application were carefully reviewed.

b. The applicant's DD Form 214 shows the applicant served 1 year, 7 months, and 11 days. The applicant tested positive for marijuana on two separate occasions. The AMHRR contains the commander's report, dated 16 May 2019, showing no other misconduct. On 3 June 2019, 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 general (under honorable conditions) characterization of service.

c. The applicant requests an upgrade of the discharge to attend school and for job purposes. The Board does not grant relief to gain employment or enhance employment opportunities. Eligibility for veteran's benefits to include educational benefits under the Post-9/11 or Montgomery GI Bill does not fall within the purview of the Army Discharge Review Board. Accordingly, the applicant should contact a local office of the Department of Veterans Affairs for further assistance.

d. 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: Adjustment Disorder with anxiety; Stress, Not Elsewhere Classified; Adjustment Disorder with mixed anxiety and depressed mood; Traumatic Brain Injury; Intimate Partner Violence; Cannabis Use, unspecified; Alcohol Use, unspecified. VA: Post-Traumatic Stress Disorder (100% Service Connected); Military Sexual Trauma.

(2) Did the condition exist or experience occur during military service? **Yes.** The Board's Medical Advisor found Adjustment Disorder with anxiety; Stress, Not Elsewhere Classified; Adjustment Disorder with mixed anxiety and depressed mood; Traumatic Brain Injury; Intimate Partner Violence were diagnosed during active service. VA service connection for Post-Traumatic Stress Disorder due to Military Sexual Trauma establishes the condition/experiences occurred while on active duty.

(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 several mitigating Behavioral Health conditions, Post-Traumatic Stress Disorder due to Military Sexual Trauma, Traumatic Brain Injury, and Intimate Partner Violence. As there is an association between these conditions and use of alcohol and illicit drugs to self-medicate symptoms, there is a nexus between these conditions, applicant's wrongful use of THC and applicant's underage drinking.

(4) Does the condition or experience outweigh the discharge? **N/A**

b. Response to Contention(s): None

c. The Board the narrative reason for the applicant's separation is inequitable based on the applicant's length and quality of his service, and the circumstances surrounding the discharge (Post-Traumatic Stress Disorder due to Military Sexual Trauma, Traumatic Brain Injury, and Intimate Partner Violence). Therefore, the Board directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, Chapter 15, and the narrative reason for separation to Secretarial Authority, with a corresponding separation code to JFF. The board

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210006939

determined the RE code was proper and equitable and voted not to change it due to the applicant's behavioral health condition.

d. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Post-Traumatic Stress Disorder due to Military Sexual Trauma, Traumatic Brain Injury, and Intimate Partner Violence mitigated the applicant's misconduct of wrongful use of THC and applicant's underage drinking. Thus, the prior characterization is no longer appropriate.

(2) The Board voted to change the reason for discharge to Secretarial Authority under the same pretexts, thus the reason for discharge is no longer appropriate. The SPD code associated with the new reason for discharge is JFF.

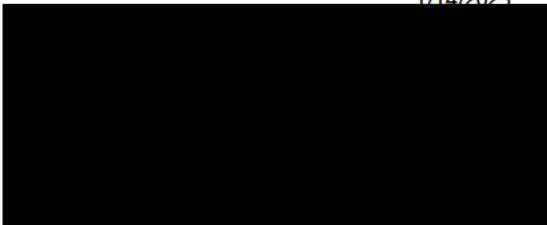
(3) The RE code will not change due to the applicant's behavioral health condition.

10. BOARD ACTION DIRECTED:

- a. Issue a New DD-214:** Yes
- b. Change Characterization to:** Honorable
- c. Change Reason / SPD Code to:** Secretarial Authority / JFF
- d. Change RE Code to:** No Change
- e. Change Authority to:** AR 635-200

Authenticating Official:

1/14/2025



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

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