

1. Applicant's Name: [REDACTED]

a. **Application Date:** 26 August 2020

b. **Date Received:** 27 October 2020

c. **Counsel:** None

2. REQUEST, ISSUES, BOARD TYPE, AND DECISION:**a. Applicant's Requests and Issues:**

(1) The current characterization of service for the period under review is general (under honorable conditions). The applicant requests an upgrade to honorable and a change of their reentry code.

(2) The applicant seeks relief stating they take full repercussions for having an illegal substance in their possession but there is no question that they reached out to their leadership about receiving help for mental health before the incident occurred. They were not granted the information or time to go to Embedded Behavioral Health until after this incident. After they received help from the Army Substance Abuse Program, they didn't fail any urinalyses.

(3) Unfortunately, their separation process took too long, and they were allegedly accused of violating their suspension of separation by disobeying an order by First Lieutenant L____ R____ when they smuggled Mr. H____ A____, a barred individual from the installation, onto Fort Hood and housed them in their barracks room. They were not briefed about the former Soldier being barred from Fort Hood. Their intention was to take them to the legal office and drop them off.

(4) During their separation proceedings they reached out to Trial Defense Service and to the Judge Advocate Generals Corp, but they were unsuccessful in finding any type of counsel that could help their case. Their company went out of their way to separate them and bar them from re-enlistment. They are not trying to excuse their actions as compared to others, but they know they made bad decisions while in the Army, but they believe their chain of command abused their power and separated them unjustly.

b. Board Type and Decision: In a records review conducted on 17 May 2024, and by a 5-0 vote, the Board, based on the applicant's length and quality of service, including the circumstances surrounding the discharge (the applicant's adjustment anxiety contributed to marijuana use, the positive urinalysis is mitigated. Bringing a barred individual on-post to the barracks room is not mitigated as there is no indication the choice related to a psychiatric condition), determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable and directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), and the separation code to JKN. The Board determined the RE Code was proper and equitable and voted not to change it.

3. DISCHARGE DETAILS:

a. Reason / Authority / Codes / Characterization: Misconduct (Drug Abuse) / Army Regulations 635-200, Paragraph 14-12c (2) / JKK / RE-4 / General (Under Honorable Conditions)

b. Date of Discharge: 7 August 2019

c. Separation Facts:

(1) Date of Notification of Intent to Separate: 20 February 2019 and 10 June 2020

(2) Basis for Separation: possessed and tested positive on a urinalysis for marijuana and willfully disobeyed a direct order given by 1LT R____ L____, when they smuggled Mr. H____ A____, a barred individual from the installation, onto Fort Hood and housed them in their barracks room.

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

(4) Legal Consultation Date: 20 February 2020

(5) Administrative Separation Board: NA

(6) Separation Decision Date / Characterization: 18 July 2019 / General (Under Honorable Conditions)

4. SERVICE DETAILS:

a. Date / Period of Enlistment: 29 August 2017 / 3 years, 16 weeks

b. Age at Enlistment / Education / GT Score: 17 / HS Graduate / 113

c. Highest Grade Achieved / MOS / Total Service: E-3 / 11B1O, Infantryman / 1 year, 11 months, 9 days.

d. Prior Service / Characterizations: None

e. Overseas Service / Combat Service: None

f. Awards and Decorations: AAM, NDSM, ASR

g. Performance Ratings: NA

h. Disciplinary Action(s) / Evidentiary Record:

(1) A DA Form 4856 (Developmental Counseling Form) dated 19 November 2018, reflects the applicant received event-oriented counseling for their squad leader, for violation of Article 112a (Wrongful use, Possession, etc., of controlled substance). The Key Points of Discussion states the applicant admitted that they had smoked marijuana and was in possession of marijuana. On 26 November 2018, the applicant agreed with the counseling and signed the form.

(2) A memorandum, U.S. Army Criminal Investigation Command, subject: Law Enforcement Report – Initial, dated 27 November 2018, reflects the applicant as the named subject in violation of Article 112a, Uniform Code of Military Justice (UCMJ) for Wrongful Possession of Marijuana and Wrongful Use of Marijuana – Not Detected by Urinalysis, occurring between 16 November 2018 and 17 November 2018. The Report Summary reflect the applicant stated they knowingly possessed and used Marijuana.

(3) A memorandum, Chosen Company, 1st Battalion, 12th Cavalry Regiment, subject: Separation under Army Regulation 635-200, Paragraph 14-12c(2), Misconduct-Abuse of Illegal Drugs [Applicant], dated 20 February 2019, the applicant's company commander notified the applicant of their intent to separate them under the provisions of Army Regulation 635-200, Chapter 14-12c(2), misconduct-abuse of illegal drugs, for possession and testing positive on a urinalysis for marijuana; with a recommended characterization of service of general (under honorable conditions). On the same day, the applicant's acknowledgement of receipt of separation notice.

(4) On 20 February 2020, the applicant completed their election of rights signing they had been advised by consulting counsel of the basis for the contemplated action to separate them under Army Regulation 635-200, paragraph 14-12c(2), and its effects, of the rights available to them, and the effects of any action taken by them in waiving their rights. The applicant understood they may expect to encounter substantial prejudice in civilian life if a general (under honorable conditions) discharge is issued to them and they may be ineligible for many or all benefits as a veteran under both Federal and State laws. They elected to submit statements on their own behalf, in their statement dated 14 February 2019, they state they have always tried to uphold and maintain the highest standards; they live by and support the Army Values. The week of the incident, they went to their chain of command about seeking help from behavioral health for personal issues; however, the opportunity never arose. They found what they thought to be a solution, but it was the biggest mistake of their life. They accept full reprimand for this incident but plead for another chance to prove themselves. They have self-enrolled in Embedded Behavioral Health and Substance Use Disorder Clinical Care.

(5) A memorandum, Chosen Company, 1st Battalion, 12th Cavalry Regiment, subject: Commander's Report – Proposed Separation under Army Regulation 635-200, Paragraph 14-12c(2), Misconduct-Abuse of Illegal Drugs [Applicant], undated, the applicant's company commander submitted a request to separate them from the Army prior to their expiration of their current term of service. The company commander states the applicant's performance and demeanor since this incident does not indicate that they have recognized the severity of their actions. They do not believe there is a genuine commitment to learn from the experience going forward.

(6) A memorandum, Headquarters, 1st Battalion, 12th Cavalry Regiment, subject: Separation under Army Regulation 635-200, Paragraph 14-12c(2), Misconduct-Abuse of Illegal Drugs [Applicant], dated 21 March 2019, the applicant's battalion commander submitted a request to separate them from the Army prior to their expiration of their current term of service. The company commander states the applicant demonstrates emotional fragility that results in indiscipline and substandard performance in their military occupational specialty. They do not predict they can successfully complete their entire term of service.

(7) A memorandum, Headquarters, 3rd Armored Brigade Combat Team, subject: Separation under Army Regulation 635-200, Paragraph 14-12c(2), Misconduct-Abuse of Illegal Drugs [Applicant], dated 22 March 2019, the separation authority having reviewed the separation packet of the applicant, directed the applicant be separated, but that the separation be suspended for a period of 6 months and their service be characterized as general (under honorable conditions).

(8) A memorandum, Chosen Company, 1st Battalion, 12th Cavalry Regiment, subject: Separation under Army Regulation 635-200, Paragraph 14-12c(2), Misconduct-Abuse of Illegal Drugs [Applicant], dated 5 June 2019, the applicant's company commander states, due to the recent actions by the applicant, they recommend the suspension of separation be lifted and that

the applicant be separated from the Army prior to the expiration of current term of service. The applicant willfully disobeyed a direct order by LT L____ when they smuggled Mr. A____ onto the installation and housed them in their barracks room. The company commander does not believe the applicant has any capacity for future service as indicated by their actions that led to their suspended separation, as well as those since then as discussed.

(9) A memorandum, Headquarters, 3rd Armored Brigade Combat Team, subject: Separation under Army Regulation 635-200, Paragraph 14-12c(2), Misconduct-Abuse of Illegal Drugs, dated 10 June 2019, the applicant's battalion commander notified them of the initiating action to vacate the suspended execution of their approved separation under the provision of Army Regulation 625-200, Chapter 14-12c, Misconduct-Abuse of Illegal Drugs. The reason for the proposed action is, on 5 June 2019, the applicant willfully disobeyed a direct order given by 1LT L____ when they smuggled Mr. A____, a barred individual from the installation, onto Fort Hood and housed them in their barracks room.

(10) In the applicant's memorandum, subject: Personal Statement of [Applicant], dated 13 June 2019, they state they were never briefed on an individual or company level about Mr. A____ being barred from post. They were only aware of Mr. A____ was barred from post because Mr. A____ told them. They were under the impression Mr. A____ was allowed on post for anything involving medical or legal issues. Since their last infraction of the UCMJ, they have taken action to get their career in the right path. They have enrolled in the Army Substance Use Disorder Clinical Care and in the Army Embedded Behavioral Health for depression and anxiety.

(11) A memorandum, Headquarters, 3rd Armored Brigade Combat Team, subject: Separation under Army Regulation 635-200, Paragraph 14-12c (2), Misconduct-Abuse of Illegal Drugs, [Applicant], dated 18 July 2019, the separation authority reviewed the separation packet of the applicant and the additional derogatory information previously provided upon their vacation of the suspended separation. After careful consideration of all matter, the separation authority directed the applicant be separated from the Army prior to the expiration of their current term of service and their service be characterized as general (under honorable conditions).

(12) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 7 August 2019, with 1 year, 11 months, and 9 days of net active service this period. The applicant did not complete their first full term of service. The DD Form 214 shows in –

- item 4a (Grade, Rate or Rank) – Private Two
- item 4b (Pay Grade) – E-2
- item 12i (Effective Date of Pay Grade) – 21 March 2019
- item 24 (Character of Service) – General (Under Honorable Conditions)
- item 26 (Separation Code) – JKK [Misconduct (Drug Abuse)]
- item 27 (Reentry Code) – 4 [Nonwaiverable Disqualification]
- item 28 (Narrative Reason for Separation) – Misconduct (Drug Abuse)

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

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

(1) **Applicant provided:** Department of Veterans Affairs (VA) Problem List reflecting active health problems the VA providers are helping the applicant to manage, consisting of

Adjustment Disorder with Mixed Emotional Features, Alcohol Abuse, Anxiety, and Major Depression.

(2) AMHRR Listed: None

5. APPLICANT-PROVIDED EVIDENCE:

- DD Form 293 (Application for the Review of Discharge from the Armed Forces) of the United States), with letter
- The Army Achievement Medal Certificate, with DA Form 638(Recommendation for Award)
- two Certificates of Training
- Certificate of Achievement
- DA Form 4856
- Memorandum, U.S. Army Criminal Investigation Command, subject: Law Enforcement Report- Initial
- excerpt of their case files for approved separation
- four 3rd Party Character Reference Letter
- Enlisted Record Brief
- VA Letter, Summary of Benefits
- VA Problem List

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

7. STATUTORY, REGULATORY AND POLICY REFERENCE(S):

a. Title 10, U.S. Code, Section 1553, (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, Title 10, U.S. Code, Section 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 (DoD) 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; Title 10, U.S. Code, Section 1553; and DoD Directive 1332.41 and DoD Instruction 1332.28.

d. Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), 19 December 2016, set policies, standards, and procedures to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. Readiness is promoted by maintaining high standards of conduct and performance.

(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) A Under Other Than Honorable Conditions Discharge is an administrative separation from the Service under conditions other than honorable. It may be issued for misconduct, fraudulent entry, security reasons, or in lieu of trial by court-martial.

(4) Paragraph 1-16 (Counseling and Rehabilitative Requirements) stated Army leaders at all levels must be continually aware of their obligation to provide purpose, direction, and motivation to Soldiers. It is essential that Soldiers who falter, but have the potential to serve honorably and well, be given every opportunity to succeed. The rehabilitative transfer requirements in chapter 14 may be waived by the separation authority in circumstances where common sense and sound judgment indicate that such transfer will serve no useful purpose or produce a quality Soldier.

(5) Chapter 14 (Separation for Misconduct) established policy and prescribed procedures for separating members for misconduct. Action will be taken to separate a member for misconduct when it is clearly established that rehabilitation is impractical or unlikely to succeed. Paragraph 14-12c (2) (Abuse of Illegal Drugs is Serious Misconduct), stated, however; 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. 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. 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(2), 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 DoD Instructions 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:

(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.

g. Army Regulation 600-85 (Army Substance Abuse Program (ASAP)) dated 28 November 2016, provided a comprehensive alcohol and drug abuse prevention and control policies, procedures, and responsibilities for Soldiers of all components. The ASAP is a command program that emphasizes readiness and personal responsibility. 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, the Warrior Ethos, and the standards of performance, discipline, and readiness necessary to accomplish the Army's mission.

(1) Unit commanders must intervene early and refer all Soldiers suspected or identified as alcohol and/or drug abusers to the ASAP. The unit commander should recommend enrollment based on the Soldier's potential for continued military service in terms of professional skills, behavior, and potential for advancement.

(2) ASAP participation is mandatory for all Soldiers who are command referred. Failure to attend a mandatory counseling session may constitute a violation of Article 86 (Absence Without Leave) of the UCMJ.

(3) Alcohol and/or other drug abusers, and in some cases dependent alcohol users, may be enrolled in the ASAP when such enrollment is clinically recommended. Soldiers who fail to participate adequately in, or to respond successfully to, rehabilitation will be processed for administrative separation and not be provided another opportunity for rehabilitation except under the most extraordinary circumstances, as determined by the Clinical Director in consultation with the unit commander.

(4) All Soldier who test positive for illicit drugs for the first time will be evaluated for dependency, disciplined, as appropriate, and processed for separation within 30 calendar days of the company commander receiving notification of the positive result from the ASAP. Retention should be reserved for Soldiers that show clear potential for both excellent future service in the Army and for remaining free from substance abuse. Soldiers diagnosed as drug dependent will be offered rehabilitation prior to separation.

h. Manual for Courts-Martial, United States (2019 Edition) stated, military law consists of the statutes governing the military establishment and regulations issued thereunder, the constitutional powers of the President and regulations issued thereunder, and the inherent authority of military commanders. Military law includes jurisdiction exercised by courts-martial and the jurisdiction exercised by commanders with respect to nonjudicial punishment. The purpose of military law is to promote justice, to assist in maintaining good order and discipline in the Armed Forces. Appendix 12 (Maximum Punishment Chart) Manual for Courts-Martial shows the maximum punishments include punitive discharge for violating the following Article 112a (Wrongful Use, Possession, etc., of Controlled Substances).

8. SUMMARY OF FACT(S):

a. The Army Discharge Review Board considers applications for upgrade as instructed by Department of Defense Instruction 1332.28.

b. The applicant's Army Military Human Resource Record (AMHRR) reflects the applicant's possession and wrongful use of marijuana and was involuntary separation from the Army. The applicant's DD Form 214 indicates their discharge under the provisions of Army Regulation 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 completed 1 year, 11 months, and 9 days of net active service this period and completed their 3-year, 16-week contractual enlistment obligation.

c. Chapter 14 establishes policy and prescribes procedures for separation members 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.

d. The applicant's AMHRR does not reflect documentation of a diagnosis other mental health conditions during their military service; however, the applicant's VA Problem list reflects active health problems the VA providers are helping the applicant to manage, consisting of Adjustment Disorder with Mixed Emotional Features, Alcohol Abuse, Anxiety, and Major Depression.

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 diagnosis: Adjustment Disorder.

(2) Did the condition exist, or experience occur during military service? **Yes.** Adjustment Disorder.

(3) Does the condition or experience actually excuse or mitigate the discharge? **Partial.** The Board's Medical Advisor applied liberal consideration and opined that given the possibility the applicant's adjustment anxiety contributed to marijuana use, the positive urinalysis is mitigated. Bringing a barred individual on-post to the barracks room is not mitigated as there is no indication the choice related to a psychiatric condition.

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

c. Response to Contention(s):

(1) The applicant contends they take full repercussions for having an illegal substance in their possession but there is no question that they reached out to their leadership about receiving help for their mental health before the instance occurred. 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 Adjustment Anxiety contributed to the marijuana use misconduct, thus mitigating the positive urinalysis. Bringing a barred individual on-post to the barracks room is not mitigated as there is no indication the choice related to a psychiatric condition.

(2) The applicant contends they were not briefed about the former Soldier being barred from Fort Hood. Their intention was to take them to the legal office and drop them off. 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 Adjustment Anxiety contributed to the marijuana use misconduct, thus mitigating the positive urinalysis. Bringing a

barred individual on-post to the barracks room is not mitigated as there is no indication the choice related to a psychiatric condition.

(3) The applicant contends during their separation proceedings they reached out to Trial Defense Service and to the Judge Advocate General's Corp, but they were unsuccessful in finding any type of counsel that could help their case. 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 Adjustment Anxiety contributed to the marijuana use misconduct, thus mitigating the positive urinalysis. Bringing a barred individual on-post to the barracks room is not mitigated as there is no indication the choice related to a psychiatric condition.

(4) The applicant contends their company went out of their way to separate them and bar them from re-enlistment. They are not trying to excuse their actions to others, but they know they made bad decisions while in the Army, but they believe their chain of command abused their power and separated them unjustly. 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 Adjustment Anxiety contributed to the marijuana use misconduct, thus mitigating the positive urinalysis. Bringing a barred individual on-post to the barracks room is not mitigated as there is no indication the choice related to a psychiatric condition.

d. The Board, based on the applicant's length and quality of service, including the circumstances surrounding the discharge (the applicant's adjustment anxiety contributed to marijuana use, the positive urinalysis is mitigated. Bringing a barred individual on-post to the barracks room is not mitigated as there is no indication the choice related to a psychiatric condition), determined the narrative reason for the applicant's separation is now inequitable. Therefore, the Board voted to grant relief in the form of an upgrade to the characterization of service to Honorable and directed the issue of a new DD Form 214 changing the separation authority to AR 635-200, paragraph 14-12a, the narrative reason for separation to Misconduct (Minor Infractions), and the separation code to JKN. The Board determined the RE Code was proper and equitable and voted not to change it.

e. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's Adjustment Anxiety contributed to the marijuana use misconduct, thus mitigating the positive urinalysis. Bringing a barred individual on-post to the barracks room is not mitigated as there is no indication the choice related to a psychiatric condition. 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

ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE

AR20210007826

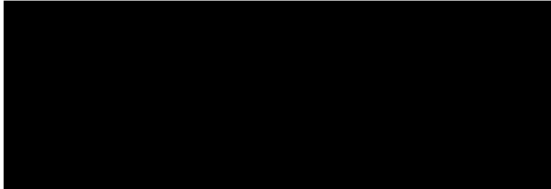
c. Change Reason / SPD code to: Misconduct (Minor Infractions)/JKN

d. Change RE Code to: No Change

e. Change Authority to: AR 635-200

Authenticating Official:

1/14/2025



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