

**Applicant's Name:** [REDACTED]

**a. Application Date:** 12 January 2021

**b. Date Received:** 26 January 2021

**c. Counsel:** None

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

**a. Applicant's Requests and Issues:** The current characterization of service for the period under review is General (Under Honorable Conditions). The applicant requests an upgrade to Honorable and a narrative reason change.

**b. Applicant's Contention(s)/Issue(s):** The applicant seeks relief contending, the multiple disciplinary actions faced for misconduct while attending a party and intoxicated. Afterward, they underwent a random urinalysis on 16 December 2019 and tested positive. Then, the applicant was informed of impending Article 15 proceedings; however, after a change in command, the new commander escalated the matter to a Special Court-Martial, which could have imposed a maximum punishment of one year of confinement and an under other than honorable discharge. The prosecution offered a plea deal to reduce the court-martial from Special to Summary in exchange for a guilty plea and a fourteen-day confinement in the County Jail. During the legal proceedings, it was identified that, under the UCMJ (Uniform Code of Military Justice), enlisted members above paygrade E-4 cannot be adjudged confinement by a Summary Court-Martial. Therefore, a revised plea agreement was reached which dismissed the initial charge and proceeded under NJP for the alleged misconduct. Following the punishment phase of their NJP, the applicant believed to have paid the consequences for their actions but instead, separation proceedings were initiated under Chapter 14-12C, pertaining to a commission of a serious offense and the general characterization of service has affected their reenlistment and certain post-service benefits. Once they were discharged, the applicant was informed they were barred from the installation, with unauthorized entry potentially resulting in confinement for up to six months, fines of up to \$4,000, although no documentation of their debarment was received prior to their discharge. The applicant perceived the cumulative punishments were disproportionately severe for a first-time offense.

**c. Board Type and Decision:** In a record review conducted on 2 May 2025, and by a 5-0 vote, The Board determined the discharge is inequitable based on the applicant's in-service factors of length, quality, combat and post service accomplishments outweighed the applicant's basis of separation (wrongful use of cocaine). The Board also determined the characterization was too harsh for one-time drug use. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed 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 also determined that a change from RE code 4 to RE-3 was warranted given the nature of the mitigation. Please see **Board Discussion and Determination** section 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:** 29 September 2020

**c. Separation Facts:**

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

**(2) Basis for Separation:** On or between 12-16 December 2019, the applicant wrongfully used cocaine.

**(3) Recommended Characterization:** NIF

**(4) Legal Consultation Date:** NIF

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

**(6) Separation Decision Date / Characterization:** 4 September 2020 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 7 February 2017 / 4 years, 20 weeks; An oath of extension, dated 27 September 2019, extended their contract by 12 months and changed their ETS to 25 June 2021.

**b. Age at Enlistment / Education / GT Score:** 21 / Associate Degree / 113

**c. Highest Grade Achieved / MOS / Total Service:** E-4 / 19D10 Cavalry Scout / 3 years, 7 months, 23 days

**d. Prior Service / Characterizations:** None

**e. Overseas Service / Combat Service:** SWA / Iraq, 4 May 2018 – 12 January 2019 (8 months, 9 days)

**f. Awards and Decorations:** ARCOM-C, AAM-3, NDSM, IRCM-CS, GWTSM, ASR, OSR

**g. Performance Ratings:** NA

**h. Disciplinary Action(s) / Evidentiary Record:** The Enlisted Record Brief provides the applicant was flagged (Suspend Favorable Personnel Actions (FLAG)) on 1 January 2020, for drug abuse adverse action (UA). On 20 July 2020, they received nonjudicial punishment (NJP) for wrongful use of cocaine on or between 12 – 16 December 2019 and was consequently reduced to specialist (E-4); forfeiture of \$1,253 pay per month for 2 months, suspended, to be automatically remitted on or before 18 September 2020; extra duty for 30 days; and restriction for 15 days. Notwithstanding the partially missing separation package, on 4 September 2020, the separation authority approved the discharge under the provisions of AR 635-200, Chapter 14-12c (2), Misconduct (Drug Abuse), with a General (Under Honorable Conditions) characterization of service. On 18 September 2020, separation orders were issued and a properly constituted DD Form 214 (Certificate of Release or Discharge from Active Duty) was electronically endorsed by the applicant who was discharged on 29 September 2020, with 3 years, 8 months, and 11 days of total service.

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

**j. Behavioral Health Condition(s):** None

**(1) Applicant provided:** None

**(2) AMHRR Listed:** None

**5. APPLICANT-PROVIDED EVIDENCE:** Application for the Review of Discharge; Self-Authored Statement; Partial Separation Package; Character Letter; The applicant's former platoon sergeant contends, having mentored the applicant for four years and observed their growth to a noncommissioned officer (NCO) and praised their dedication, professionalism, and leadership. The applicant consistently took initiative, excelled in training exercises, demonstrated exceptional commitment during a deployment to Iraq. The environment of the base was challenging during the applicant's tenure, as there were widespread issues such as sexual assault, drug abuse, and other serious incidents. The applicant was thrust into leadership under difficult circumstances and any mistakes made were due to inadequate senior leadership rather than personal failure. The applicant was described as one of the top five NCO's the platoon sergeant had worked with in their 13 years of service and they commended the applicant's ability to have upheld Army standards, their having mentored Soldiers, and having fostered a culture of competence and commitment. They should be reconsidered for reenlistment which emphasized their continued value to the Army and their ability to shape future Soldiers and leaders.

**6. POST SERVICE ACCOMPLISHMENTS:** None was provided with this 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 600-85 (Army Substance Abuse Program (ASAP)) provided a comprehensive alcohol and drug abuse prevention and control policies, procedures, and responsibilities for Soldiers for ASAP services. 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 and the standards of performance, discipline, and readiness necessary to accomplish the Army's mission. All Soldiers who are identified as drug abusers, without exception, will be referred to the ASAP counseling center for screening; be considered for disciplinary action under the UCMJ, as appropriate; and be processed for administrative separation in accordance with Army Regulation 635-200.

**(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. 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.

**(2)** 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.

**(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 Soldiers who are identified as drug abusers, without exception, will be referred to the ASAP counseling center for screening; be considered for disciplinary action under the UCMJ, as appropriate; and be processed for administrative separation in accordance with Army Regulation 635-200.

**g.** 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:

**(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.

**h.** Army Regulation 635-200 (Active Duty Enlisted Administrative Separations), 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)** Chapter 3 provides 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.

**(a)** 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.

**(b)** 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.

**(c)** 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.

**(d)** 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. 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, it will 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

i. 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 14-12c (2), Misconduct (Drug Abuse).

j. Manual for Courts-Martial (2019 Edition), United States, states 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 orders and discipline in the Armed Forces. Article 112a (wrongful use of a schedule II controlled substance) states in the subparagraph, the maximum punishment consists of a bad conduct discharge, forfeiture of all pay and allowances, and confinement for five years.

**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 and a narrative reason change. The applicant's Army Military Human Resources Record (AMHRR), the issues, and documents submitted with the application were carefully reviewed.

b. The available evidence provides the applicant enlisted in the RA, promoted to SGT, deployed to Iraq for eight months, and served 3 years, 7 months, and 23 days of their 4 year-20 week contractual obligation. Eleven months post redeployment, the applicant tested positive for cocaine and consequently received NJP which imposed a reduction to SPC. Notwithstanding the missing records, the separation authority approved their discharge under the provisions of AR 635-200, Chapter 14-12c (2) by reason of Misconduct (Drug Abuse), with a General (Under Honorable Conditions) characterization of service and the DD Form 214 contained the applicant's electronic signature.

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. 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? **No.** The Board's Medical Advisor reviewed DoD and VA medical records and found

no mitigating BH diagnoses on the applicant. The applicant provided no documents or testimony of a condition or experience, that, when applying liberal consideration, could have excused or mitigated a discharge.

**(2)** Did the condition exist or experience occur during military service? **N/A**

**(3)** Does the condition or experience actually excuse or mitigate the discharge? **N/A**

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

**b.** Prior Decisions Cited: None

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

**(1)** The applicant seeks relief contending, the multiple disciplinary actions faced for misconduct while attending a party and intoxicated. Afterward, they underwent a random urinalysis on 16 December 2019 and tested positive. Then, the applicant was informed of impending Article 15 proceedings; however, after a change in command, the new commander escalated the matter to a Special Court-Martial, which could have imposed a maximum punishment of one year of confinement and an under other than honorable discharge. The prosecution offered a plea deal to reduce the court-martial from Special to Summary in exchange for a guilty plea and a fourteen-day confinement in the County Jail. During the legal proceedings, it was identified that, under the UCMJ (Uniform Code of Military Justice), enlisted members above paygrade E-4 cannot be adjudged confinement by a Summary Court-Martial. Therefore, a revised plea agreement was reached which dismissed the initial charge and proceeded under NJP for the alleged misconduct. Following the punishment phase of their NJP, the applicant believed to have paid the consequences for their actions but instead, separation proceedings were initiated under Chapter 14-12C, pertaining to a commission of a serious offense and the general characterization of service has affected their reenlistment and certain post-service benefits. Once they were discharged, the applicant was informed they were barred from the installation, with unauthorized entry potentially resulting in confinement for up to six months, fines of up to \$4,000, although no documentation of their debarment was received prior to their discharge. The applicant perceived the cumulative punishments were disproportionately severe for a first-time offense.

The Board considered this contention and found it substantiated in that the characterization at discharge was too harsh.

**d.** The Board determined the discharge is inequitable based on the applicant's in-service factors of length, quality, combat and post service accomplishments outweighed the applicant's basis of separation (wrongful use of cocaine). The Board also determined the characterization was too harsh for one-time drug use. Therefore, the Board voted to grant relief in the form of an upgrade of the characterization of service to Honorable and changed 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 also determined that a change from RE code 4 to RE-3 was warranted given the nature of the mitigation

**e.** Rationale for Decision:

**(1)** The Board voted to change the applicant's characterization of service to Honorable because the applicant's length, quality, combat and post service accomplishments outweigh the applicant's use of illicit drugs. Thus, the prior characterization is no longer appropriate.



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

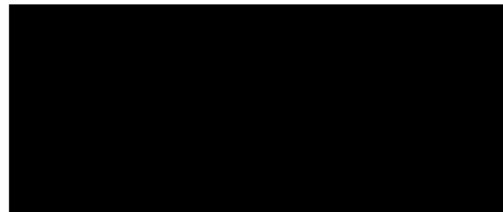
(3) The Board voted to change the RE code to RE-3.

**10. BOARD ACTION DIRECTED:**

- a. Issue a New DD-214 / Separation Order: Yes
- b. Change Characterization to: Honorable
- c. Change Reason / SPD code to: Misconduct (Minor Infractions)/JKN
- d. Change RE Code to: RE-3
- e. Change Authority to: AR 635-200

**Authenticating Official:**

5/10/2025



**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