

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

- a. **Application Date:** 1 December 2020
- b. **Date Received:** 2 February 2021
- 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.

(2) The applicant seeks relief contending they wish for their discharge to be reviewed for potential upgrade base on their character of service and medical record for anxiety and depression and sleep disorder.

**b. Board Type and Decision:** In a records review conducted on 27 June 2025, and by a 5-0 vote, the Board determined the discharge is inequitable based on the applicant's Major Depressive Disorder (MDD) that mitigated the applicant's Drug Abuse. 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.

**3. DISCHARGE DETAILS:**

**a. Reason / Authority / Codes / Characterization:** Misconduct (Serious Offense) / Army Regulation 635-200, paragraph 14-12C / JKQ / RE-3 / General (Under Honorable Conditions)

**b. Date of Discharge:** 4 June 2020

**c. Separation Facts:**

(1) **Date of Notification of Intent to Separate:** 15 May 2020

(2) **Basis for Separation:** between on or about 4 February 2020 and on or about 4 March 2020, violated a lawful general regulation, Army Regulation 600-85 (The Army Substance Abuse Program (ASAP), paragraph 4-2p (1).

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

(4) **Legal Consultation Date:** 20 May 2020

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

(6) **Separation Decision Date / Characterization:** 27 May 2020 / General (Under Honorable Conditions)

**4. SERVICE DETAILS:**

**a. Date / Period of Enlistment:** 31 May 2018 / 4 years, 22 weeks

- b. Age at Enlistment / Education / GT Score:** 17 / HS Diploma / 103
- c. Highest Grade Achieved / MOS / Total Service:** E-3 / 74 D1O, Chemical Operations Specialist / 2 years, 4 days
- d. Prior Service / Characterizations:** NA
- e. Overseas Service / Combat Service:** Poland / None
- f. Awards and Decorations:** NDSM, GWTSM, ASR
- g. Performance Ratings:** NA
- h. Disciplinary Action(s) / Evidentiary Record:**

(1) A DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ)) dated 11 June 2019 reflects the applicant received nonjudicial punishment for, at or near Swietoszow, Poland, on or about 5 June 2019, was disrespectful in language toward a noncommissioned officer (NCO) in violation of Article 91 (Disrespect Superior NCO), UCMJ. Their punishment consisted of a reduction in rank/grade from private first class/E-3 to private two/E-2, forfeiture of \$439.00 pay, and extra duty and restriction for 14 days. The applicant elected not to appeal.

(2) A DA Form 2627 (Record of Proceedings under Article 15, Uniform Code of Military Justice (UCMJ)) dated 17 March 2020 reflects the applicant received nonjudicial punishment for, at or near Fort Riley, KS, on or about 24 February 2020, without authority, fail to go at the time prescribed to their appointed place of duty, to wit: 0630 hours reconditioning physical training, in violation of Article 86 (Failing to go, going from appointed place of duty). Their punishment consisted of a reduction in rank/grade from private two/E-2 to private/E-1, extra duty 14 days, and an oral reprimand. The applicant elected not to appeal.

(3) A memorandum, ASAP, subject: Positive Urinalysis Test Notification, dated 3 April 2020, reflects the ASAP manager notified the applicant's unit of their positive drug test conducted on 4 March 2020.

(4) A DA Form 3822 (Report of Mental Status Evaluation) dated 4 May 2020, reflects the applicant has no duty limitations due to behavioral health issues and currently meets behavioral health medical retention standards. Section IV (Diagnoses) reflects the applicant has a behavioral health diagnosis of Legal Stressors. The Behavioral Health Provider commented the applicant's behavioral health diagnosis does not constitute matters in extenuation that related to the basis of administrative separation. The applicant is cleared for Army Regulation 635-200, chapter 14 separation.

(5) A DD Form 2808 (Report of Medical Examination) dated 8 May 2020, reflects the examining physician marked "Normal" for all items examined except for item 37 (Identifying body marks, scars, and tattoos). The examining physician marked the applicant is qualified for service (for separation), with no physical profile restrictions, and no diagnoses found.

(6) A DA Form 4856 (Developmental Counseling Form) dated 13 May 2020 reflects the applicant received counseling from their first sergeant notifying the applicant of the initiation of the suspension of favorable personnel actions (Flag). The first sergeant states the applicant will be flagged as Involuntary Separation-field initiated, due to their positive urinalysis.

(7) A memorandum, Headquarters and Headquarters Troop, 1st Squadron, 4th Cavalry Regiment, 1st Armored Brigade Combat Team, 1st Infantry Division, subject: Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, [Applicant], dated 15 May 2020, the applicant's company commander notified the applicant of their intent to separate them under the provisions of Army Regulation 635-200, paragraph 14-12c, for misconduct as described above in paragraph 3c(2). The company commander recommended the applicant's service be characterized as General (Under Honorable Conditions). On the same day, the applicant acknowledged the basis for the separation and of the right available to them.

(8) In the applicant's memorandum, subject: Election of Rights Regarding Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, [Applicant], dated 20 May 2020, the applicant acknowledged that they have been advised by their consulting counsel of the basis for the contemplated action to separate them for Commission of a Serious Offense, and its effect; of the rights available to them; and of the effect of any action taken by them in waiving their rights. They understood that they may expect to encounter substantial prejudice in civilian life if a General (Under Honorable Conditions) discharge is issued to them. They further understand that as a result of issuance of a discharge that is less than honorable conditions, they may be ineligible for many or all benefits as a veteran under both Federal and State laws. They elected not to submit statements in their own behalf and waived consulting counsel.

(9) A memorandum, Headquarters and Headquarters Troop, 1st Squadron, 4th Cavalry Regiment, subject: Commander's Report – Proposed Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, [Applicant], dated 20 May 2020, the applicant's company commander submitted a request to separate them prior to their expiration term of service. The company commander states they do not consider it feasible or appropriate to accomplish other disposition as 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. The commander comments “[Applicant] has used drugs several time in [applicant's] career, paired with [applicant's] poor work performance, and poor attitude at work, I do not recommend that [applicant] be retained.”

(10) A memorandum, Headquarters, 1st Squadron, 4th Cavalry Regiment, subject: Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, [Applicant], dated 26 May 2020, the applicant's battalion commander recommended to separate them prior to their expiration term of service and recommended their service be characterized as General (Under Honorable Conditions). The battalion commander states recommend separation. Applicant is unwilling to remediate and not worth the risk at any rate.

(11) A memorandum, Headquarters, 1st Armored Brigade Combat Team, subject: Separation under Army Regulation 635-200, Paragraph 14-12c, Commission of a Serious Offense, [Applicant], dated 27 May 2020, the separation authority reviewed the applicant's separation packet and after careful consideration of all matters, directed the applicant be separated from the Army prior to the expiration of their current term of service. The commander directed the applicant's service be characterized as General (Under Honorable Conditions). After reviewing the rehabilitative transfer requirements, the separation authority determined the requirements do not apply to this action.

(12) A DD Form 214 (Certificate of Release or Discharge from Active Duty) reflects the applicant was discharged on 4 June 2020, with 2 years and 4 days of net active service this period. The DD Form 214 shows in item 18 (Remarks) – MEMBER HAS NOT COMPLETED FIRST FULL TERM OF SERVICE.

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

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

(1) **Applicant provided:** On 18 May 2021 the Army Review Boards Agency requested the applicant provide their medical documents to support their stated issue, as of this date there has been no response.

(2) **AMHRR Listed:** DA Form 3822 (Report of Mental Status Evaluation) as described in previous paragraph 4h (4).

**5. APPLICANT-PROVIDED EVIDENCE:**

- DD Form 293 Application for the Review of Discharge from the Armed Forces of the United States), with letter
- four 3rd Party Statement

**6. POST SERVICE ACCOMPLISHMENTS:** None submitted with 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) prescribes policies and standards to ensure the readiness and competency of the force while providing for the orderly administrative separation of Soldiers for a variety of reasons. It prescribes the policies, procedures, authority for separation of Soldiers, and the general provisions governing the separation of Soldiers before ETS or fulfillment of active duty obligation to meet the needs of the Army and its Soldiers.

(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) An 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 (Separation for Misconduct) 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) establishes policy and prescribes procedures for separating personnel for misconduct because of minor disciplinary infractions, a pattern of misconduct, commission of a serious offense, conviction by civil authorities, desertion, and absence 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 (Commission of a Service Offense), stated 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.

(6) Chapter 15 (Secretarial Plenary Authority), currently in effect, 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. Paragraph 4-2p (1) states the regulation prohibits Soldiers from using Hemp or products containing Hemp oil. It also prohibits using the following substances for the purpose of inducing excitement, intoxication, or stupefaction of the central nervous system, to include, controlled substances analogues such as synthetic cannabis and other Tetrahydrocannabinol, substitutes, derivatives of 2-aminopropanal, synthetic cocaine, or any other substance similarly designed to mimic the effects of a controlled substance on the human body without an approved medical use in the United States.

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 "JKQ" as the appropriate code to assign enlisted Soldiers who are discharged under the provisions of Army Regulation 635-200, Chapter 14, paragraph 14-12c, misconduct (serious offense).

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 Instruction 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)) 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. 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. 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.

**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 Article 112a (Wrongful Use of Controlled Substances).

## **8. SUMMARY OF FACT(S):**

**a.** The Army Discharge Review Board considers applications for upgrade as instructed by DoD Instruction 1332.28.

**b.** A review of the available evidence provides the applicant received two occurrences of nonjudicial punishment under the provision of Article 15 's, was identified as a drug positive on a urinalysis test and was discharged from the U.S. Army. The DD Form 214, signed by the applicant, provides the applicant was discharged with a character of service of General (Under Honorable Conditions) for misconduct (serious offense) rather than a discharge under other than honorable conditions, which is normally considered appropriate. They completed 2 years and 4 days of net active service this period and did not complete their first full term of service of their 4-year, 22-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 diagnoses of anxiety, depression, and sleep disorder; nor did the applicant provide such evidence during their military service.

e. Published DoD 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 (50%SC). [Note: Uncomplicated Bereavement and Adjustment DO are 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 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, MDD. As there is an association between MDD, avoidant behavior and self-medication with alcohol and/or drugs, there is a nexus between his diagnosis of MDD, his offense of failing to report and his offense of wrongfully using marijuana on two separate occasions.

(4) Does the condition or experience outweigh the discharge? **Yes.** The Board concurred with the opinion of the Board's Medical Advisor, a voting member. As a result, the ADRB applied liberal consideration and found that the applicant's MDD outweighed the drug abuse (wrongfully using marijuana on two separate occasions) basis for separation for the aforementioned reason.

b. Prior Decisions Cited: None

c. Response to Contention(s): None

d. The Board determined the discharge is inequitable based on the applicant's Major Depressive Disorder (MDD) that mitigated the applicant's Drug Abuse. 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.

e. Rationale for Decision:

(1) The Board voted to change the applicant's characterization of service to Honorable because the applicant's MDD mitigated the applicant's drug use. 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.

**ARMY DISCHARGE REVIEW BOARD CASE REPORT AND DIRECTIVE**

**AR20210007988**

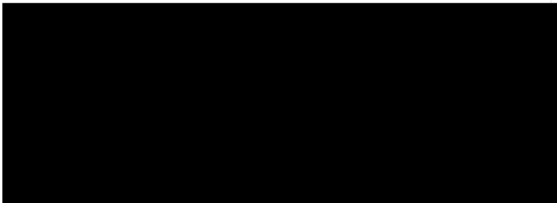
(3) The RE code will not change, as the current code is consistent with the procedural and substantive requirements of the regulation.

**10. BOARD ACTION DIRECTED:**

- a. **Issue a New DD-214:** Yes
- b. **Change Characterization to:** Honorable
- c. **Change Reason / SPD code to:** Misconduct (Minor Infractions)/JKN
- d. **Change RE Code to:** No Change
- e. **Change Authority to:** AR 635-200, paragraph 14-12a

**Authenticating Official:**

10/2/2025



**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